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ABSTRACT

The guide is intended to help clarify P.L. 94-142, The Education For All Handicapped Children Act, and its regulations for administrators. The manual is organized around three central topics: an overview of the law and its regulations (background and purpose of the law, major provisions of the regulations, future of special education); effects of P.L. 94-142 on the administrator (accessibility, individualized education programs, parent-school relationship, mainstreaming, inservice education, related services); and activities to help administrators prepare to implement P.L. 94-142 (inservice/personnel development, effective management of the IEP team, public awareness). Two appendixes present highlights of regulations and an annotated bibliography related to administrators and P.L. 94-142. (CL)

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July 1980

PREFACE

This guide is intended to clarify P.L. 94-142 and its implementing Regulations for administrators. The purposes of the guide are to:

- outline and summarize the provisions of P.L. 94-142 that are of most concern to administrators;
- address some of the questions regarding P.L. 94-142 that have been asked by administrators;
- increase sensitivity to the needs of handicapped students;
- enable a team approach to the development of Individualized Education Programs (IEPs);
- help administrators see handicapped students as having personal needs and aspirations similar to those of nonhandicapped persons; and
- provide sources of further information on P.L. 94-142 as it relates to administrators, service delivery, in-service training, "mainstreaming," and parent/administrator relations.

GUIDE TO CONTENTS

PREFACE

INTRODUCTION 1

SECTION ONE: WHAT IS PUBLIC LAW 94-142? WHAT ARE THE REGULATIONS FOR ITS IMPLEMENTATION? 3

- P.L. 94-142: Its Background and Purpose
- The Regulations for Implementing P.L. 94-142: Major Provisions
  - Free Appropriate Public Education
  - Least Restrictive Environment
  - Evaluation/Placement
  - Individualized Education Program (IEP)
  - Personnel Development
  - Procedural Safeguards (Due Process)
  - Funding
- Other Topics Covered by the Regulations
- Future of Special Education
- Sources for Obtaining a Copy of P.L. 94-142 and Its Regulations

SECTION TWO: HOW DOES P.L. 94-142 AFFECT THE ADMINISTRATOR? 9

SECTION THREE: WHAT ACTIVITIES WOULD HELP THE ADMINISTRATOR PREPARE TO IMPLEMENT P.L. 94-142? 19

- How can I conduct appropriate in-service/personnel development for all the educational staff involved in the implementation of P.L. 94-142?
- What can I do to assist in the effective management of the IEP team?
- How can I develop public awareness of the concerns and issues in the implementation of P.L. 94-142?

APPENDIX A: HIGHLIGHTS OF REGULATIONS IMPLEMENTING P.L. 94-142 35

APPENDIX B: SELECTED ANNOTATED REFERENCES PERTINENT TO ADMINISTRATORS AND P.L. 94-142 75

INDEX 83

The legislative history outlined below regarding education for handicapped persons is intended to give the administrator a historical perspective for P.L. 94-142. Apart from the legislative history, other forces, such as the PARC vs. the Commonwealth of Pennsylvania case, have had a major impact on the Law.

- P.L. 19-8 (1823) provided a federal land grant to an "asylum" for the deaf in Kentucky;
- P.L. 45-186 (1879) authorized $10,000 to the American Printing House for the Blind to produce braille materials;
- P.L. 66-236 (1920) extended vocational rehabilitation benefits from World War I veterans to civilians;
- P.L. 80-617 (1948) amended the Civil Service Act to remove discrimination in hiring the physically handicapped;
- P.L. 83-531, the Cooperative Research Act of 1954, provided an initial $675,000 for education research for mentally retarded children;
- P.L. 88-164, the Mental Retardation Facilities and Mental Health Construction Centers Act of 1963, amended earlier legislation to include funding for the training of personnel working with all disabilities;
- P.L. 89-313 (1965) provided support for handicapped children in state-administered programs, hospitals, and institutions;
- P.L. 90-480 (1968) called for the elimination of architectural barriers to the physically handicapped;
- P.L. 90-538, the Handicapped Children's Early Assistance Act of 1968, established experimental demonstration centers for the handicapped;
- P.L. 91-230, the Education of the Handicapped Act, was written and incorporated into the Elementary and Secondary Education Act of 1965;
- P.L. 92-424, the Economic Opportunity Act Amendments of 1972, mandated that 10% of the enrollment opportunities in Head Start programs be set aside for handicapped children; and
- P.L. 93-380, the Education Amendments of 1974, guaranteed due-process procedures in placement, assessment, and testing of handicapped children.

In 1971, P.L. 91-230 repealed Title VI of the Elementary and Secondary Education Act, replacing it with the Education of the Handicapped Act. P.L. 94-142 is an amendment to Part B of that Law, which authorizes grants to the states to assist in initiating, expanding, and improving programs for the education of handicapped children.

The Mathias Amendment of 1974 authorized $660 million to be made available to the states under Part B to initiate, expand, and improve special education programs. In addition, along with amendments offered by Senator Stafford, it established certain due-process procedures, assurances of confidentiality, and a timetable for full service delivery.

The Education for All Handicapped Children Act was introduced by Senator Harrison Williams into the 93rd Congress on January 4, 1973, as S. 6, and reintroduced in the 94th Congress by Senators Williams, Randolph, and others on January 15, 1975. It was intended to amend Part B and to ensure the expansion of the provisions of both P.L. 91-230 and P.L. 93-380. On June 18, 1975, S. 6 passed the Senate; on July 21, 1975, its companion measure, HR. 7217, passed the House, under the leadership of Representatives Brademas and Quie. These measures received overwhelming majorities in both houses (Senate 87-7, House 407-7). The Senate/House conference reported out the Education for All Handicapped Children Act on November 14, 1975. On November 29, 1975, President Ford signed the bill into law as P.L. 94-142, but not without serious misgivings. Although the President's main objections were budgetary, he criticized the detail and complexity of administrative requirements that would unnecessarily assert federal control over traditional state and local government functions.

Anticipating difficulties and the need for extensive planning, Congress mandated that full service delivery

to children ages 3 through 18 would not take effect until 1978; the date for children ages 3 through 21 was set for 1980. This schedule was to allow states time to gear up for compliance—to establish and to adjust existing state-level mandates to the provisions of P.L. 94-142.

In addition, a further step was required. The Regulations governing the implementation of the Law had to be issued by the responsible executive agency, the Bureau of Education for the Handicapped (BEH). To carry out its responsibilities under P.L. 94-142, BEH undertook a variety of public-information activities designed to achieve three purposes:

- to assist state and local education agencies toward compliance by disseminating information about the law;
- to provide an opportunity for individuals and groups to voice their concerns about implementation at state and local levels; and
- to write regulations that would be reasonable, adequate, and consistent with the intent of P.L. 94-142 and with existing state laws.

From March through August 1976, BEH conducted or participated in approximately 20 public meetings about P.L. 94-142 structured on both a geographic and special-interest basis. Approximately 2,200 persons attended. A series of public meetings were held for college and university personnel whose institutions receive training grants in special education. BEH staff made presentations at a number of national conferences conducted by professional associations, such as the Council for Exceptional Children (CEC) and the American Psychological Association. In early June 1976, a national advisory group of approximately 170 persons, comprised of parents, advocates, handicapped persons, representatives of teacher organizations, administrators of state and local programs, and other professionals, was convened to write concept papers on major topics in the Law. These papers served as a basis for the draft Regulations, issued December 30, 1976. The final Regulations regarding the implementation of P.L. 94-142 were developed in light of the comments received at public regional hearings held throughout the country. The Regulations were promulgated Tuesday, August 23, 1977.

SECTION ONE

WHAT IS P. L. 94-142? WHAT ARE THE REGULATIONS FOR ITS IMPLEMENTATION?

P. L. 94-142: Its Background and Purposes

P. L. 94-142 is a federal law passed by the 94th Congress as its 142nd piece of legislation. Signed into law on November 29, 1975, it is also known as the Education for All Handicapped Children Act of 1975. It amends the Education for the Handicapped Act, Part B, a section regarding state grants in the education of the handicapped. Essentially, P. L. 94-142 is a funding bill designed to assist the states; as such, it may be implemented differently in each state, but always in accordance with the respective state plan. The Law was based on a number of Congressional findings or understandings as of 1975:

- There were more than 8 million handicapped children in the United States;
- The special educational needs of many of these children were not being fully met;
- More than half the handicapped children in the United States did not receive appropriate educational services;
- One million of the handicapped children in the United States were excluded entirely or in part from the public school system and did not go through the education process with nonhandicapped classmates;
- There were many children with undetected handicaps participating in regular school programs;
- Because of inadequate services within the public school system, families were often forced to find services outside the system, often far from their homes and at their own expense;
- Developments in the training of teachers and in diagnostic and instructional procedures have advanced to the point that, given appropriate funding, state education agencies (SEAs) and local educational agencies (LEAs) can and will provide effective special education;
- SEAs and LEAs have a responsibility to provide education for all handicapped children, but financial resources were inadequate; and
- It is in the national interest that the federal government assist state and local efforts to provide programs to meet the education needs of handicapped children in order to assure equal protection under law.

P. L. 94-142 addresses itself specifically to these concerns. It defines handicapped children as those who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped; or who have specific learning disabilities. The purposes of P. L. 94-142 are:

- to ensure that all handicapped children have available to them Free Appropriate Public Education;
- to ensure that the rights of handicapped children and their parents are protected,
- to provide financial assistance to states and localities for the education of all handicapped children; and
- to assess and ensure the effectiveness of efforts to educate handicapped children.

In September 1973, the Vocational Rehabilitation Act (P. L. 93-112) was signed into law. Section 504 of that law provides that handicapped persons cannot be discriminated against solely on the basis of their handicap. Thus Section 504 became the first federal civil-rights legislation to protect and address the rights of handicapped persons. The language of Section 504 is almost identical to the comparable nondiscrimination provisions of Title VI of the Civil Rights Act of 1964 (applying to racial discrimination) and Title IX of the Education Amendments of 1972 (applying to sex discrimination). Besides Section 504 of P. L. 93-112, Sections 502 and 503 are of interest to state and LEA personnel. Section 502 mandates the elimination of architectural barriers that make buildings inaccessible to handicapped persons, and creates the Architectural and Transportation Barriers Compliance Board. Section

503 states that any federal contractor (with a contract in excess of $2,500) must take affirmative action to employ handicapped persons.

However, these laws are by no means a comprehensive magic wand. Even though both are presently being implemented and progress is being made in the schools, many handicapped individuals are still unable to take part in a number of facets of American society—excluded by architectural, zoning, and transportation barriers.

The Regulations for Implementing P. L. 94-142: Major Provisions

Realizing that P. L. 94-142 would have a significant impact on the education of handicapped youth nationwide, the U. S. Office of Education (now the U.S. Education Department) took steps to ensure that the Regulations would be based on public input. After more than a year of extensive public participation, the Regulations were completed and publicized in the Federal Register, August 23, 1977, pp. 42464-42518 (45 CFR Part 121a). Additional regulations related to the evaluation of learning disabilities were published in the Federal Register, December 29, 1977, pp. 65082-65085.

The P.L. 94-142 Regulations specify the methods that SEAs and LEAs (school districts*) must use in implementing P. L. 94-142 if they are to receive federal funds under it. The Regulations encompass all facets of the Law. Although all areas are of some importance to the administrator, seven provisions are crucial to an administrator's understanding of the Law. These are:

1. Free Appropriate Public Education
2. Least Restrictive Environment
3. Evaluation/Placement
4. Individualized Education Program (IEP)
5. Personnel Development
6. Procedural Safeguards (Due Process)
7. Funding

A summary of each of these provisions and its implications follows:

Free Appropriate Public Education. Simply stated, P. L. 94-142 makes provision for *Free Appropriate Public Education* at all levels of schooling for all handicapped children who need special education and *related services*. The Law specifies a September 1, 1978, deadline for providing this service to handicapped children 3 through 18 years of age, and a September 1, 1980, deadline for handicapped children 3 through 21—provided these stipulations are not "inconsistent" with current state laws or court orders. *Free* is defined as at public expense, under public supervision and direction, and without charge to parents. An *appropriate* program for a given child must meet the requirements of that child's IEP and be carried out in the Least Restrictive Environment (see below).

By *related services* the Law means transportation and those developmental, corrective, and other supportive services required to assist a handicapped child to benefit from special education. These services include, but are not limited to, early identification and assessment of disabilities in children, medical services for diagnostic or evaluation purposes, speech pathology and audiology, occupational therapy, psychological services, physical therapy, recreation, counseling services, school health services, school social work services in schools, and parent counseling and training. (Controversy presently exists regarding the definition of "related services.")

Least Restrictive Environment. The Law states that each handicapped child must be educated with nonhandicapped children to the maximum extent appropriate to that child. This includes participation in extracurricular activities with nonhandicapped students.

The Law further states that special classes, separate schooling, or the removal of handicapped children from the regular educational environment may occur only when the nature or severity of their handicap is such that education within a regular classroom, "with the use of supplementary aids and services, cannot be achieved satisfactorily." Placement in the school the handicapped child would attend if he/she were not handicapped is preferred. However, consideration must be given to any potential harmful effect of this placement on the child and the quality of services.

Thus the appropriateness of a learning environment for a handicapped child is to be determined by the severity and effects of the handicapping condition as well as by the nature and quality of the learning environment. For example, placement of a hearing-impaired child might depend upon degree of hearing loss; language development (e.g., vocabulary, lipreading ability, speech ability, and reading level)

*Hereafter, the term "school district" will be used interchangeably with "local education agency" (LEA), since they are, in most cases, synonymous.

factors of personal and social development; and the availability of supplementary media, special teachers, or other supports to deliver the services stipulated in the IEP.

In addition, the school district must ensure a continuum of alternative placements. This continuum includes instruction in regular classes, special classes, special schools, homes, and hospitals and institutions. It also includes supplementary services, such as resource-room or itinerant instruction to supplement regular class placement.

Needless to say, there is some concern about the concept of Least Restrictive Environment and its relationship to appropriateness of an education. Some believe that "mainstream" placements in the regular classroom and school are appropriate for even severely handicapped children; others support special class placements for these students. A clearer definition of "appropriate" will doubtless occur over time.

Evaluation/Placement. Before any evaluation is begun, the parent must be fully informed of what is planned and must give written permission for it.

A full evaluation of the handicapped child's educational needs must be made before the child is placed in a special program. The evaluation must be made in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. The evaluation, which must not be racially or culturally discriminatory, provides the basis for determining eligibility of and developing a program for that child.

The evaluation is performed by a multidisciplinary team of professionals designated by the appropriate school district administrator after parental permission has been obtained. Though the examinations and procedures of the assessment are designated and regulated by each state and district, the district is responsible for the following conditions:

- All tests and evaluations must be provided and administered in the native language of the child unless it is clearly not feasible to do so;
- Tests and evaluations must be validated for the specific purpose for which they are used;
- Tests must be administered by a trained professional in conformance with the instructions given by the producer of the test;
- All tests must be selected and administered so as not to be racially or culturally discriminatory;
- No single procedure is to be used as the sole criterion for determining an appropriate education program; and
- For students who may have a specific learning disability, classroom observations must be made.

Once the assessment information has been gathered and analyzed individually by each member of the evaluation team, the child's program placement is determined by the projected needs and required services of the IEP developed by the team (see below).

Individualized Education Program (IEP). The IEP provision directly affects the school administrator. It represents the appropriate educational program for each exceptional child. (This program may involve considering an extension of the traditional school year.)

The Law requires specific items to be included in all IEPs. The implementation methods and the detail with which these items are spelled out will vary from state to state; however, the following basic information must be included:

- present educational performance level of the child;
- the annual goals set for the child, including a statement on short-term instructional objectives;
- a statement of the specific special education and related services to be provided to the child and the extent to which the child will be able to participate in a regular educational program;
- the projected initiation date and anticipated duration of special services; and
- an evaluation plan (appropriate objective criteria, evaluation procedures, and schedules for determining, at least on an annual basis, the achievement of short-term instructional objectives).

The IEP, based on the child's evaluation, must be developed, reviewed, and revised by a team including a representative of the public education agency, such as the principal; the child's teacher; one or both of the parents; the child, where appropriate; and necessary others. If the child has been evaluated for the first time, the IEP team must also include a member of the evaluation team or some other person, possibly the child's teacher or the principal, who is familiar with the evaluation procedures used and the interpretation of results.

The Law requires the scheduling of meetings at times and places mutually agreeable to parent and educator. Furthermore, the school district must ensure that parents understand the proceedings of the meeting. (Such arrangements might include the use of an interpreter for deaf or non-English-speaking parents.)

A written notice indicating the attendance, purpose, time, and location of the meeting must be sent to the parents in time for them to attend. If the parents cannot be identified or if the child is a ward of the state, then the school district shall assure the selecting and assigning of a surrogate parent. This surrogate assumes parental responsibility for all matters relating to the identification, evaluation, and educational placement of the child and to the provision of a Free Appropriate Public Education.

October 1, 1977, was the first deadline for the development of IEPs for each handicapped child. The beginning of every school year thereafter marks the due date for their revision; meetings may be scheduled at any time prior to the beginning of the school year (perhaps staggered throughout the year) for children continuing in a special education program. The development of IEPs for students new to the district or newly identified as eligible for special education programs must be completed within 30 days of their enrollment or of the determination of eligibility for special education. The Law stipulates that IEPs must be in effect before special education and related services are to be provided.

Personnel Development. Each state is required to establish procedures for needs assessment, to determine the number of qualified special education personnel available in the state, to provide professional and support personnel with in-service training in special education based on the findings of the needs assessment, and to acquire and disseminate significant information to teachers and administrators of programs for the handicapped.

Procedural safeguards (due process). This provision outlines the procedure to be followed in the event of a parental or school district grievance regarding the appropriateness of a child's education, identifying information, evaluations, or educational placement. The Law provides for an impartial due-process hearing involving the parent and the school district to be conducted by someone not employed by or affiliated with the district. Parents must be notified in writing a reasonable time before the district either proposes or refuses to effect changes in any of the aforementioned areas. Either party in the hearing has a right to be accompanied and advised by legal counsel and experts/others, present evidence, confront, cross-examine, compel attendance, and prohibit the introduction of any evidence that has not been disclosed at least 5 days before the hearing. In addition, both parties are entitled to a written or recorded verbatim record of the hearing and to written findings of fact and decisions. In some states this impartial hearing is taken directly to the state level; in others, conciliation hearings are encouraged at the district level to deter the expenses of a formal due-process hearing.

A parent or school district dissatisfied with the results of a hearing may appeal to the SEA, which will then conduct an impartial review and make a decision. If this second appeal is not satisfactory to all, any party has the right to bring civil action in a state or U.S. district court. If a lawsuit is initiated by a parent, it may be brought against the school district and/or individual school personnel.

Funding. Under P.L. 94-142, both states and school districts are entitled to federal funds based on a formula that multiplies the number of children ages 3 through 21, who actually receive special education and related services, by an annually increasing percentage of the average funds spent, per pupil, in U.S. public elementary and secondary schools.

School Year	Annually Increasing Percentage	Authorization	Appropriation	Per-Pupil Amount
1977-78	5%	$387 million	$315 million	$ 70
1978-79	10%	775 million	465 million	156
1979-80	20%	1.2 billion	804 million	211
1980-81	30%	2.32 billion	862 million	–
1981-82	40%	3.16 billion	–	–

During fiscal year 1978, both the state and school districts were entitled to 50% of funds distributed by the formula. In fiscal year 1979 and thereafter, 25% of the funds is to be allocated to states and 75% to school districts. Districts can use these funds only to pay the "extra costs" of special education (i.e., costs above a computed minimum to be spent in providing special education and related services). It should be noted, however, that although the Law provides a formula for the amount of funds to be allotted and their distribution, this does not necessarily mean that all needed funds will be forthcoming.

The following restrictions have been imposed for federal allocation purposes only:

- No more than 12% of all children ages 5 through 17 in the state may be counted as handicapped; and
- No handicapped children who are counted and already funded under Section 121 of the Elementary and Secondary Education Act of 1965 (also referred to as P.L. 89-313) may be counted for allocation of P.L. 94-142 funds.

In no way do these restrictions place a limitation on the number of children identified as handicapped by the state or school district for their own purposes, or on the federal mandate to provide all handicapped children with a Free Appropriate Public Education.

In order to qualify for assistance in any fiscal year, an active "Child Find" program must be instituted. Such a program must involve the identification, location, and evaluation of all handicapped children ages birth through 21, regardless of the severity of their handicap; and the determination of which children are or are not currently receiving special education and related services. The classroom teacher and the school administrator should be key persons in the Child Find process. It should be noted that the process is not limited to young children, but seeks all handicapped individuals eligible for services under the Law.

Other Topics Covered by the Regulations

In addition to the seven foregoing provisions, the regulations also call for:

- the establishment of a Full Educational Opportunity goal for all handicapped children ages birth through 21;
- the annual count, as of December 1, of handicapped children ages 3 through 21 who are receiving special education and related services for allocation purposes (due by April 1 of each year);
- priorities in the use of funds under P.L. 94-142;
- the proper use of funds under P.L. 94-142;
- methods to guarantee public participation in the review of the state annual program plans and on the state advisory panel;
- procedures for students placed either by the school district or the parent in private educational settings; and
- policies and procedures to protect the confidentiality of Personally Identifiable Information and data about a child.

Future of Special Education

Currently, special education is in a period of dramatic transition. Old practices are being challenged, and traditional roles and functions are undergoing redefinition. Terms such as "deinstitutionalization," "mainstreaming," "right to education," and "decategorization" reflect the success of advocacy for the handicapped. Shifts in our society and our schools have followed. Educators need to be aware of the changes that are likely to occur during the next 10 to 15 years, to understand their implications for education, and to adapt for growth as well as survival. The following trends* may have a major impact on the future of special education:

- greater individualization in the education of all students;
- a possible extension of the traditional school year;
- increased use of members of the community and resources and agencies outside the school for instructional purposes;
- expanded role of computers in student-data management for evaluation, monitoring, and decision making;
- development of community centers to provide health, evaluative, and counseling/educational services to handicapped clients, with an emphasis on preschool and post-school severely handicapped clients;
- scientific/medical advances that will modify or prevent certain handicaps, resulting in new and different services/programs for the changing handicapped population;
- an increase in alcoholism, drug abuse, psychological disorders, and environmental diseases due to the pressures of our industrialized society;
- greater emphasis on teaching handicapped students more productive use of leisure time and preparation for leisure-related occupations;
- increased demands for special education services by parents and advocacy groups, resulting in cooperative decision making in special education programming;
- more coordination between vocational rehabilitation and special education services;
- increased pressure for voucher plans in financing programs for handicapped students, resulting in a possible resurgence of private schools;

*Selected from *Dimensions of the Future and the Challenge of Change. A Report of the 1978 Annual Meeting of the National Association of State Directors of Special Education*, New Orleans, March 1979.

- increased pressure by teachers to have stipulated pupil-teacher ratios for handicapped students in regular classes and to receive compensatory pay for conference attendance and IEP development outside regular school hours;
- more demand by regular class teachers for specialized training prior to placement of handicapped students in their classroom;
- increased attention to the standards for admission and retention of handicapped students in regular classrooms; and
- increased demand by administrators for a guaranteed staff-pupil ratio.

In conclusion, it is readily evident that public schools will be forced to expand their services to handicapped children. Other segments of our society, both public and private, must also change to accommodate handicapped citizens. Handicapped individuals who receive a Free Appropriate Public Education in a nonrestrictive environment can no longer be second-class citizens, they will—and should—demand post-school training programs, good jobs, adequate housing, and the many other amenities that all of us have come to expect.

Sources for Obtaining a Copy of P.L. 94-142 and Its Regulations

Because of the impact of P.L. 94-142 on American education, it is important that administrators have a copy of the Law, the Regulations, state guidelines, and local school district plans. Information for obtaining these documents is listed in the next column. While Appendix A of this guide contains highlights of the Regulations, the Regulations proper should be referred to if the legality of a particular issue is in question.

Public Law 94-142, 94th Congress, S.6
November 29, 1975
An Act

Send $1.10 to: Superintendent of Documents
U. S. Government Printing Office
Washington, D.C. 20402

The Federal Regulations for the Implementation of Part B of the Education of the Handicapped Act
(also referred to as the Regulations Implementing Public Law 94-142)

Write to: William D. Tyrrell, Policy Officer
Division of Assistance to States
Room 4926
Bureau of Education for the Handicapped
Donohoe Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202

State Guidelines

Contact your local school district office or state department of education (There may be a small charge.)

School District Plan

Contact your local school district office.

SECTION TWO:

HOW DOES P.L. 94-142 AFFECT THE ADMINISTRATOR?

The following discussion is based on the questions administrators most frequently ask regarding P.L. 94-142.

1. Q. To what extent has P.L. 94-142 been implemented by LEAs across the country?

A. This question is addressed by BEH's State Program Implementation Studies Branch in its report to Congress on the implementation of P.L. 94-142, Progress Toward a Free Appropriate Public Education. The report may be obtained from the U. S. Education Department (OE Publication No. 79-05003).

2. Q. What is presently being done by the federal government to deal with problems caused by the enactment of P.L. 94-142?

A. State plan officers from BEH conducted program administrative reviews in 21 states during 1978-79. In each review, the state was considered out of compliance if the program was out of compliance. This noncompliance of program signals to BEH that either the state or the LEA lacks "appropriate policy or procedures" or is not implementing them. It may also show that a state is failing to monitor adequately its programs for the handicapped. Such situations require a case-by-case course of action by BEH. Monitoring, technical assistance, and dissemination continue to be problem areas; however, the reviewing state plan officers are making progress in helping states come into compliance with P.L. 94-142.

3. Q. Must all physical school facilities be made accessible to all handicapped students?

A. Not necessarily. While a school district need not make each of its buildings completely accessible, it may not make only one facility or part of a facility accessible if the net result is to segregate handicapped students in a single setting. Program and facility planning must ensure that handicapped children have the same curricular and extracurricular choices that nonhandicapped children have.

4. Q. Does the Law mean that all handicapped children will be educated in regular classes?

A. No. The intent of the Law is to provide a regular classroom setting to a handicapped child only to the extent that it is appropriate. For some children, education in a special facility or a self-contained special education classroom may be the appropriate Least Restrictive Environment.

5. Q. How is appropriateness of public education determined?

A. "Appropriateness" refers to the unique requirements of the individual child. It is determined within the LEA, and education choices are suited to each student based on his/her need. Before a child is found eligible for a special education program, a comprehensive assessment of all areas related to the child's suspected disability is made by a team of specialists as part of an appraisal process. This information, plus pertinent background data, is used collaboratively by a team including the teacher, the parent, a qualified representative of the school district (e.g., the principal/headmaster or a special education professional), and the child, when appropriate, to determine placement in the Least Restrictive Environment and to produce an IEP. The IEP represents the best (i.e., most appropriate) program for meeting the child's needs.

6. Q. What does an IEP look like?

A. The format of the written IEP has not been specified by the Regulations. However, the following content is required for each IEP:

- a statement of the child's present level of educational performance;
- a statement of annual goals, including short-term instructional objectives;
- a statement of the specific special education and related services to be provided, and the extent to which the child will be able to participate in regular educational programs;
- the projected dates for initiation and duration of services; and
- appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

7. Q. Who is responsible for assuring the appropriateness of each IEP?

A. The primary responsibility rests on the local school district. If services are not available within the district, it is nevertheless that district's responsibility to identify, obtain, and provide the services stipulated in the IEP.

8. Q. Who is responsible for assuring the completeness of an IEP?

A. The school-based IEP team, composed of at least the teacher, LEA representative (e.g., principal), parent, and child (where appropriate), is responsible for development, revision, and review of an IEP. Nationally, BEH has not developed criteria for completeness other than the content specified in the Regulations. However, The National Resource Center of Pennsylvania has published a manuscript entitled Suggested Criteria for IEP Technical Evaluation, NRCP, 443 South Gulf Road, King of Prussia, Pa. 19406; 215-265-3706.

In order to promote IEP development, it is suggested that a team chairperson be selected and responsibilities for each team member delineated. Decisions made by the team are usually facilitated by the chairperson. There is no federal requirement for unanimous decisions; rather, team agreement is specific to each case. If there are disagreements, however, due-process safeguards should be implemented by the challenging party.

9. Q. Must I, as the designated administrator, attend all IEP planning conferences for the handicapped students in my building?

A. No. The administrator may delegate authority to another (e.g., a guidance counselor) who can represent him/her at these meetings. However, the administrator is still ultimately responsible for the handicapped students in his/her building. It is important to note that the LEA representative at an IEP meeting must have the authority to commit the school system's resources to a child's program.

10. Q. Is it the principal's job to monitor the implementation of the IEPs in his/her school?

A. Only if he/she has been assigned that responsibility by the IEP team or the appropriate administrator. The IEP team is responsible for the development and review of the IEP, and a specific member of it can be assigned to monitoring its implementation. Therefore, the principal need not become involved, especially if not a member of the IEP team.

11. Q. How can parents be encouraged to participate in IEP planning?

A. There are many things a school administrator can do. A few suggestions follow. Administrators are also urged to investigate the resources in their district.

- Make the written notice of an IEP planning conference clear to the parent. Make a follow-up telephone call, answering questions, encouraging participation, and pointing out that not attending is interpreted as agreement with the program—by default—the parent thus forfeiting input to the plan.

- Stress to the parent that the time and location of the planning meeting can be adjusted to his/her schedule.
- Familiarize parents with school proceedings, through formal and informal contacts such as through the PTA and counseling services, before they become involved in IEP planning.
- Encourage school-sponsored programs that help parents of a handicapped child; e.g., programs that help them manage the behavior of their child at home or programs that acquaint them with noneducational services in the community.

12. Q. Do I have any recourse when parents arrive at an IEP conference with expectations of desired services/programs/ instructional materials?

A. It is not appropriate for an agency to present a completed IEP to parents for their signature. The IEP is a written statement *developed in any meeting* with the agency representative, the teacher, and the parent. It implies, therefore, that no party is to come to the meeting with predetermined notions of desirable services. Rather, the services proposed at the meeting are to be considered recommendations for discussion. Final decisions are to be made by joint agreement. Thus, it could be clarified for parents that their recommendations for services/programs/instructional materials will be discussed in the meeting but that the IEP is developed and agreed upon by the majority of team members.

13. Q. How should I respond to the nonhandicapped student's parents who want to know why their child does not have an IEP?

A. An administrator may remind such parents that an IEP represents a specification of all *special education and related services* needed to achieve an appropriate education for a handicapped child. It does not specify a total educational program for a handicapped child (unless that child is not involved in any regular education), but just those aspects requiring special education. It may be necessary to point out that not having an IEP does not mean *no* educational program; rather, it means that the educational program for the nonhandicapped child, developed by his/her teacher, does not involve special education services.

14. Q. How can I deal with parents who fear the unknown legalities involved in placing a handicapped student in an appropriate special education program?

A. A school administrator should encourage parents to attend the IEP planning meeting and point out that they are allowed to bring anyone with them, including legal counsel. In this way, as placement decisions are being made, an advocate can advise parents of immediate or impending concerns and possibly allay their fears. In addition, parents may gain free information and advice from the following agencies that answer inquiries and act as brokers of information services by referring inquiries to appropriate national and/or state information sources:

Clearinghouse on the Handicapped
Office for Handicapped Individuals
388-D South Portal Building
Washington, D.C. 20201
(202) 245-1961

Children's Defense Fund
Washington Research Project, Inc.
1520 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 483-1470

Closer Look
The National Information Center for the Handicapped
P. O. Box 1492
Washington, D.C. 20013
(202) 833-4160

It may also be helpful to identify the regional resource center providing assistance in your region.

15. Q. What is the role of a parent surrogate?

A. The parent surrogate's primary function is to represent the student in those circumstances where decisions need to be made regarding the student's educational placement and program. The surrogate is responsible for responding to requests for evaluation/reevaluation, initiating requests for evaluation/re-evaluation, reviewing student records and evaluation findings, participating in IEP planning meetings, approving/disapproving the IEP and/or placement, and initiating due-process procedures if necessary.

The terms "parent surrogate" and "parent advocate" have been incorrectly used interchangeably. As applied here, a parent surrogate represents a parent replacement regarding educational matters. A parent advocate promotes children's rights and need not replace a parent. Rather, an advocate may assist a parent or parent surrogate in securing the rights of a handicapped child.

16 Q. How do I select a parent surrogate?

A. A parent surrogate must represent the educational interests of the child and must be independent of any public agency or institution that provides education or care for the child. In the spring of 1980 BEH will provide a policy statement clarifying qualifications of the parent surrogate in order to avoid possible conflict of interest and assure impartiality. BEH does advise that choosing foster parents or other third parties to serve as surrogates is preferable to choosing state employees such as social welfare workers.

At the present time there are no national guidelines for the selection of parent surrogates. Administrators are urged to contact their respective SEAs for information.

17. Q. How can I determine if the full range of educational services for handicapped students is being provided?

A. If the full range of educational services for handicapped students is to be realized, the special education administrator must conduct a needs assessment to identify the kinds and numbers of facilities, personnel, and/or services necessary to meet that goal. Such an assessment indicates the number of needed special class teachers, resource-room teachers, and itinerant or consultant teachers, school psychologists, social workers, occupational therapists, physical therapists, home-hospital teachers, speech-language pathologists, audiologists, teacher aides, vocational education teachers, work-study coordinators, diagnostic personnel, supervisors as well as self-contained classes, resource rooms, occupational therapy facilities, and sheltered workshops. In addition, transportation needs in carrying handicapped students to and from programs must be considered.

18. Q. What procedures are available for determining the Least Restrictive Environment for each handicapped student?

A. In light of the intent of the Least Restrictive Environment concept, (i.e., to provide the same opportunities and experiences for a handicapped child as would be afforded his/her nonhandicapped peers), the administrator must determine the minimum intervention needed to effect a satisfactory educational program. This task may be addressed by a thorough evaluation of the child's strengths, weaknesses, and needs, with subsequent determination of how a regular program can be minimally modified to meet those needs. A balance must be struck between what is least restraining environmentally and most appropriate educationally.

19. Q. What is meant by the term "mainstreaming"?

A. The term "mainstreaming" has been used to indicate instructional placement of handicapped students within the educational program of their nonhandicapped counterparts. However, "mainstreaming" has not been mandated by law. Rather, P.L. 94-142 requires that handicapped students be placed in the Least Restrictive Environment. The Least Restrictive Environment is the most appropriate placement for a handicapped student, while "mainstreaming" is the process of integrating handicapped pupils into regular classrooms.

20. Q. What is the difference between "mainstreaming" and the concept of Least Restrictive Environment?

A. While the term "mainstreaming" indicates placement of handicapped students with their less handicapped or nonhandicapped peers, the Least Restrictive Environment concept dictates the placement of handicapped students with their nonhandicapped peers to the greatest extent appropriate. That is, placement of handicapped students with their nonhandicapped peers is made only to the extent that it provides satisfactory education. It is the intent of the Least Restrictive Environment concept to place handicapped and nonhandicapped students together unless the nature and severity of the handicap is such that education, with the use of supplementary aids and services, could not be satisfactorily achieved. Thus, while "mainstreaming" may imply placement together of all handicapped and nonhandicapped students, the Least Restrictive Environment concept dictates placement together of handicapped and nonhandicapped students, to the maximum extent possible, but always in light of the goal of an appropriate education.

21. Q. How can I become sensitive to the issues involved in "mainstreaming" and/or determining the Least Restrictive Environment?

A. "Mainstream On-Call" offers free information about federal legislation and the handicapped. It serves federal contractors and grantees who want to know how to comply with the Rehabilitation Act, disabled individuals with questions about their rights–anyone seeking information about the "mainstreaming" of handicapped people.

Mainstream, Inc.
1200 15th Street, N.W.
Washington, D.C. 20005
(800) 424-8089

22. Q. Should there be community input concerning Least Restrictive Environment efforts for placing handicapped students in my school?

A. Yes. Efforts should be made to broaden community understanding of the Law as well as awareness of implementation concerns. Perhaps the best procedure for obtaining community input is via public meetings arranged by the school district.

23. Q. What basic information about P.L. 94-142 should be presented in in-service education to teachers who are attempting to implement the Law?

A. This depends upon the level of teacher understanding, the nature of the student/teacher relationship, and the extent to which the teachers instruct handicapped students. With these variables in mind, the in-service leader should consider including the following in in-service education: Free Appropriate Public Education, Least Restrictive Environment, evaluation/placement, Individualized Education Program (IEP), personnel development, procedural safeguards, and funding.

24. Q. What are useful methods in in-service education programs to guide teachers in developing IEPs, locating resources, and meeting with parents of handicapped students?

A. There is no best method for all teachers; however, it is critical to deal with the content needs of the teachers as well as their preferences regarding mode of instruction. Perhaps the simplest method of identifying teachers' needs and preferences is to collect information from a needs-assessment questionnaire. It is important to ask questions in an open-ended way. Regarding mode of presentation, however, it might be helpful to suggest various formats, such as demonstration, modeling, or role playing.

25. Q. Should there be mechanisms for obtaining teacher input concerning the implementation of P.L. 94-142?

A. Yes. Perhaps the most appropriate method is the IEP monitoring process. During monitoring, the special education administrator/supervisor can obtain teacher feedback concerning general implementation of the Law.

26. Q. What kinds of conflict can I expect in the implementation of P.L. 94-142?

A. P.L. 94-142 specifies a number of procedures that are familiar to most administrators concerned with good education; e.g., team meetings to determine appropriate programming. However, the Least Restrictive Environment requirement necessitates the cooperative efforts of regular, special, and vocational educators. Thus, the school administrator may find conflict arising from disagreements among these specialists as well as union disputes (e.g., demands for compensatory pay for increased conferences and programming in the IEP process). In addition, the newly formed collaboration of educator and parent requires sensitive handling, and steps should be taken to prevent potential problems.

27. Q. How can I resolve a conflict between P.L. 94-142 provisions and teacher/paraprofessional contracts?

A. Consider all possible solutions; e.g., modifications in staff deployment, increased hiring of teachers/paraprofessionals, and the use of volunteers.

28. Q. Since I have no formal special education training, how can I be held responsible for the supervision of special education teachers in my school?

A. Such supervision is a cooperative effort shared by the special education administrator/supervisor and the principal. The supervisor is usually concerned with program development and sequence throughout the grades; thus he/she is often better qualified to judge the appropriateness of instructional materials and methods. The principal is able to assess teacher/learning areas such as classroom environment, behavior management, and teaching techniques; thus he/she may be more competent to evaluate the effectiveness of the program in light of the school organization.

29. Q. How can I find time to do all the things the Law requires?

A. Some responsibilities can be delegated. For example, the LEA representative at IEP meetings need not always be the special education/building administrator; a teacher, speech pathologist, or other administrator can fill that role. The LEA representative should be chosen according to the nature and severity of the child's handicap and the extent of service required. Most important, the representative must have the authority to commit agency resources; otherwise, service commitment vetoed at a higher level can undermine programs. The monitoring of IEP implementation can also be assigned to an IEP team member, not

necessarily the special education/building administrator. You may also delegate the coordination and supervision of support services to an appropriate member of the faculty (e.g., learning consultant or school psychologist).

30. Q. What kinds of mechanisms can help the many professionals work cooperatively and communicate among one another?

A. Perhaps the key facilitator is the guidance counselor/social worker or principal. Their offices are the logical places for confidential records and for multidisciplinary meetings. The counselor/social worker or principal should establish a sign-out procedure for all records and reports regarding handicapped students. The resource-room teacher can also help the communication process.

31. Q. How can attitudes of teachers be made more positive about a truly coordinated regular education program?

A. This is not easy to specify. A few suggestions for developing cooperative working relationships, especially between regular and special educators, follow:

- Make clear to all teachers the responsibilities of the special and regular educators;
- Provide the support services to assist regular educators in interacting with/instructing handicapped students;
- Provide experiences to help regular educators understand and appreciate the strengths, weaknesses, and needs of handicapped students;
- Provide experiences among special and regular educators and handicapped students that require cooperative efforts and are positively reinforcing;
- Encourage (via class scheduling) regular and special educators to "live" together in the school environment; e.g., eat lunch together, share preparation time.

32. Q. What "related services" must the LEA provide to handicapped students?

A. These services include "transportation and such developmental, corrective, and supportive services as are required to assist a handicapped child to benefit from special education. These services might be any of the following: speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes." The category also includes "school health services, social work services in schools, and parent counseling and training."

33. Q. To what extent is the LEA obligated to provide medical services to handicapped students?

A. This is unclear and will require clarification. Broward County (Florida) Schools, for example, appropriated $250,000 in 1979 for medically related services to handicapped pupils. While the Law calls for schools to provide medical services only in connection with diagnosis and evaluation, there is confusion between, on the one hand, what constitutes a medical service and, on the other, what constitutes a health service and therefore is required as a "related service" (e.g., catheterization). Essentially, decisions can be based on the criterion that the medical service must be directly related to the provision of special education. Further, decisions should be specific for each handicapped student. For further clarification, contact your SEA, local universities, or the Council for Exceptional Children (CEC) (toll-free telephone number: 800-336-3728).

34. Q. Which forms and activities are federal requirements under P.L. 94-142 and which are state requirements?

A. There are eight basic federal forms required of SEAs under P.L. 94-142:

- Program Administrative Review Forms
- P.L. 94-142 Child Count Forms
- P.L. 89-313 Average Daily Attendance Forms
- Performance and Financial Reports
- FY Program Plan Applications for Part B, EHA–Section 611
- Preschool Incentive Grant Application Forms for Part B, EHA–Section 619
- Local Education Agency Interview Guides
- State Education Agency Interview Guides

Federally required special education activities can be classified into five groups:

- identification activities–e.g., the LEA establishing a system for the identification and evaluation of private school students suspected of having handicapping conditions;
- assessment activities–e.g., the LEA administering tests in the child's native language;
- placement activities–e.g., convening an IEP meeting within 30 days of a determination that a child needs special education;
- program-related activities–e.g., carrying out due-process procedures; and
- monitoring activities–e.g., taking corrective actions when discrepancies are identified during monitoring.

It is likely that other forms and/or activities not classified under the above categories would be an individual state requirement. If in doubt, contact your regional intermediate state agency (ISA) or SEA.

35. Q. Does the Law appropriate sufficient funds for schools to meet compliance requirements? Will it provide sufficient future funds to meet escalating school costs?

A. Not necessarily. Although the Law provides a formula for the amount of funds to be allotted and distributed, this does not necessarily mean that all needed funds will be forthcoming.

36 Q. How much money should an LEA reasonably spend on establishing procedural safeguards?

A. This is difficult to specify. Seventy-five percent of federal monies are to flow through to LEAs. How that money is spent is specific to each particular LEA. The only criteria for spending is that (a) funds supplement, not supplant, existing services and (b) unserved and underserved handicapped students have priority in receiving those funds. It is estimated that funds to establish procedural safeguards would probably not extend beyond 25% of the total LEA budget.

37. Q. How can I respond to the local taxpayer who is critical of increased special education budgets?

A. You can acknowledge that special education funds have increased during fiscal years 1975-79. State special education funds grew at an annual rate of 14.3%. Nationally, the annual increase during the initial years of P.L. 94-142 was 13.3%, and during fiscal years 1978-79 it was 16.1%. However, these increases do not indicate the diversion of funds from nonhandicapped pupils. Nationally, during fiscal years 1975-78, state special education expenditures as a percentage of total spending for elementary and secondary education, decreased slightly from 3.65% to 3.63%.

38. Q. What use can I make of federal funds for special education?

A. Decision-making policies concerning the use of federal funding for special education are currently under development in each SEA. For example, presently there are challenges as to whether a culturally disadvantaged handicapped child can receive services under both P.L. 94-142 and Title I of the Elementary and Secondary Education Act. Clarification will probably come in the regulations regarding a particular controversial legislation.

If in doubt, contact your SEA or any of the following sources for possible clarification:

National Association of State Directors of Special Education, Inc. (NASDSE)
1201 Sixteenth Street, N.W.
Washington, D.C. 20036
(202) 833-4193

Council for Exceptional Children (CEC)
1920 Association Drive
Reston, Va. 22091
(800) 336-3728 ext. 229

American Association for School Administrators (AASA)
1801 N. Moore Street
Arlington, Va. 22209
(703) 528-0700

39. Q. How can I use federal dollars to build support for due-process systems and Child Find activities?

A. The number one priority of many SEAs is to develop due-process systems and Child Find activities. Much of the 25% of funds under P.L. 94-142 allotted to states is being used for due process. However, LEAs also bear a responsibility to maintain active Child Find activities and due-process systems.

Ways federal monies can be used to support due-process and Child Find activities include:

- conducting in-service activities for parents, teachers, and administrators;
- conveying information to parents, teachers, and administrators in written materials;
- hiring outside consultants to clarify and facilitate due-process procedures; and
- establishing and maintaining contact with information-dissemination services that review due-process hearings throughout the country, for example:

CRR Publishing Co.
Suite 724, 1156 15th Street, N. W.
Washington, D.C. 20005
(202) 659-1450

40. Q. What percentage may intermediate state agencies retain of the flow-through monies not appropriated for SEA use?

A. Theoretically, the entire 75%. The distribution of funds between intermediate state agencies and LEAs would depend upon the extent of services provided by each type of agency.

41. Q. How can local boards of education be influenced to make needed resources available?

A. By reminding them that Part B of the Education of the Handicapped Act, as amended by P.L. 94-142 and Section 504 of the Vocational Rehabilitation Act, requires that by September 1, 1978, each handicapped child be provided all services necessary to meet his/her special education and related needs. *BEH has rejected the interpretation that this means that a public agency must provide only those services available in the agency.*

As an IEP is required for each handicapped student, and can be considered an agreement for services, all services specified by it must be provided even if those services are not available within the agency. If they

are not provided, the agency is not in compliance with P.L. 94-142. Failure to comply may result in withdrawal of funding.

42. Q. Who is qualified to act as an impartial hearing officer for an LEA?

A. There is no specific requirement in P.L. 94-142 for the training of hearing officers. States may, however, require such training if they wish to, and may use P.L. 94-142 funds from their 25% share for this purpose.

All hearing officers should be trained in the technical and legal aspects of the law for handicapped persons. The question becomes one of whether to train a lawyer in the principles of special education or a person knowledgeable about education in the intricacies of the law, hearings, and legal decisions.

A hearing may not be conducted by a person who:

- is an employee of a public agency involved in the education or care of the child, or
- has a personal or professional conflict of interests.

A person otherwise qualified is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer. Each LEA must keep a list of those who serve as hearing officers and a statement of their qualifications.

43. Q. Is there a working definition of "learning disabilities" for purposes of funding classification and instructional placement?

A. Professionals in the field of learning disabilities are currently attempting to develop a serviceable working definition. The Regulations define "specific learning disability" as a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such definitions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps; of mental retardation; or of environmental, cultural, or economic disadvantage.

44. Q. Does P. L. 94-142 apply to gifted and talented students?

A. Not from a federal perspective, since gifted and talented students are not defined as handicapped by the Law. Concerns of the gifted and talented are addressed in the Gifted and Talented Children's Act of 1978, P.L. 95-561.

However, some states, e.g., Pennsylvania and North Carolina, have elected, at the state level, to include gifted and talented students under special education. In these two states, then, all the requirements of P.L. 94-142 apply to gifted and talented students as well. Some other states, while not including gifted and talented students under special education, have chosen to make special provisions for them, such as providing them with IEPs. Contact your SEA for provisions in your state.

45. Q. Are there enough special education teachers?

A. In January 1979, BEH reported a steady increase in the number of special education teachers. It is difficult to specify at the present time, however, whether personnel needs have been met. Estimates of additional needs for 1977-79 provided by 40 states and territories totaled to 1,000 teachers of the visually handicapped and 13,000 teachers of the emotionally disturbed. In addition, in 1977 the National Center for Education Statistics reported a shortage of about 3,300 trained special educators, primarily in the area of learning disabilities.

Q. How can I conduct appropriate in-service/personnel development for all the educational staff involved in the implementation of P.L. 94-142?

A. You can conduct periodic staff needs assessments, become familiar with in-service models and programs, and establish a reference library for all educational personnel.

SECTION THREE:

WHAT ACTIVITIES WOULD HELP THE ADMINISTRATOR PREPARE TO IMPLEMENT P.L. 94-142?

ACTIVITY A-1 **Needs Assessment**

Objective: To identify problems and attitudes regarding the implementation of P.L. 94-142 to be addressed in in-service sessions.

Materials: Observational checklist, interview form, survey (to be developed)

Procedure: Needs assessments can be conducted in various ways, depending upon the constraints of individual schools. Suggested methods include:

- Observing the Activities of Educational Personnel
  Focus on their efforts to implement P.L. 94-142.
- Individually Interviewing Staff
  Focus on implications of implementing P.L. 94-142.
- Asking Staff Members to Respond to a Survey
  Emphasize observed/anticipated problems and/or attitudes regarding implementation. This survey can be constructed along a continuum, from open-ended questions to a highly structured format providing answer choices for each question.
- Holding Staff Meetings
  Urge participants to share their problems, concerns, and/or attitudes regarding implementation.

For specific suggestions in designing an appropriate needs assessment, refer to:

Designing a Problem-Focused Needs Assessment
Leonard C. Burrello, Project Director
National Inservice Network
Indiana University, School of Education
2853 E. 10th Street
Bloomington, Ind. 47405
(812) 332-0211

ACTIVITY A-2 **In-Service Programs**

Objective: To become familiar with in-service models and programs

Materials: One or more references from the sources below

Procedure: Listed below are some in-service models and programs dealing with implementation.

For additional information concerning in-service models and programs, contact your SEA or the Division of Personnel Preparation, Bureau of Education for the Handicapped, 400 Maryland Avenue, S. W., Washington D. C. 20202.

Busch, J. P., & Lewis, C. L. Mainstreaming in-service: Structure and content. Education Unlimited, 1979, 1(5), 7-13.

This article describes the in-service resulting from a needs assessment of "mainstreaming" conducted with 300 educators in a Pennsylvania county. Responses were grouped into five categories: philosophical and legal issues, diagnosis/assessment/referral/evaluation, curriculum and instruction, environment, and administration. Models of in-service planning are described as well as various designs for program presentation.

Child Find: Handbook for Implementation, The Colorado Model

Source: Brian A. McNulty
Early Childhood Consultant
Colorado Department of Education
Special Education Services Unit
201 East Colfax
Denver, Colo. 80203

This handbook is designed to train LEA personnel in procedures for implementing a local child find campaign.

Informal Diagnostic-Prescriptive Programming Workshop

Source: Dena Goplorude
1332 26th Street
Drake University
Des Moines, Iowa 50311

This in-service program is designed for trainers and special education teachers. It contains 10 competency-based modules addressing some of the following topics: task analysis; how to plan, develop, organize, and implement a workshop; and communication skills. The format consists of manuals and transparencies for 5-day participants' workshops, manuals for 2-day follow-up workshops for trainers, as well as manuals and videotapes for 3-day trainers' workshops.

Media and the Message: A Teacher Training Program on P.L. 94-142 for Special Educators and Media Specialists

Source: Dawn Heller, Media Specialist
Riverside-Brookfield High School
Ridgewood and Golf Roads
Riverside, Ill. 60546

or

Sara McCracken, Director
LaGrange Area Department of Special Education
1301 West Cossitt Avenue
LaGrange, Ill. 60525

This program is designed for teachers, administrators, and media specialists. It is a six-session course, using tapes and printed materials, that attempts to develop an understanding of P.L. 94-142, the needs of handicapped students, the use of media with handicapped students, and the development of the IEP.

STRETCH (Strategies for Training Regular Educators to Teach Children with Handicaps)

Source: Hubbard
P. O. Box 104
Northbrook, Ill. 60062

This program is designed for regular educators and teacher trainers. There are approximately 20 modules, including the following training lectures: questioning skills, learning centers, value clarification, classroom management, and parent counseling.

Project TEAMS (Team-management decision-making for Educators and Administrators to Meet Special education mandates)

Source: American Association of School Administrators
National Association of Elementary School Principals
1801 N. Moore Street
Arlington, Va. 22209

Serving superintendents, principals, school boards, teachers, and parents, Project TEAMS assists local school districts to be more effective in planning and decision making. Project staff conduct intensive workshops and provide on-site follow-up assistance. Project activities include identifying discrepancies among P.L. 94-142, state law, and local policies; determining and setting priorities for procedural and policy changes; and formulating individualized district plans of action and task forces to establish a full-service delivery system to meet the special education needs of all students.

ACTIVITY A-3 | **Reference Library**

Objective: To provide information services and resources on all phases of implementation of P.L. 94-142 for educational staff.

Materials: References, some of which may be selected from the sources below

Procedure: Listed below are some basic resources that may be included in a reference library. Make efforts to catalog and identify references as well as to establish a communication network to keep the staff informed of the materials available.

- Copy of State Guidelines for P.L. 94-142
  The specifics of state operating procedures should be available.
- Copy of LEA Plan for the Delivery of Special Education Services
  A handbook describing local operating procedures, programs, resources, and forms should be available, including sample IEPs, covering a range of ages and handicapping conditions.
- Information Describing the Nature and Needs of Various Handicapping Conditions
  Introductory texts such as the following should be available:
  - Reynolds, M. C. & Birch, J. W. Teaching exceptional children in all America's schools: A first course for teachers and principals. Published 1977 by Council for Exceptional Children (CEC) 1920 Association Drive, Reston, Va. 22091; (800) 336-3728.
- Listings of Agencies, with Their Respective Materials, Serving the Needs of Handicapped Persons
  The following represent a few resources:
  - Regional Resource Centers (RRCs)
    RRCs provide assistance to SEAs and, through them, to LEAs to help them meet their responsibilities in developing IEPs consistent with the provision of a Free Apporpriate Public Education. RRCs provide technical assistance through demonstrations of exemplary service and through delivery of service in appraisal, placement alternatives, implementation precedures, evaluation of child performance, and review of the IEP process. Sixteen centers are geographically dispersed across the nation to serve all states, the District of Columbia, Puerto Rico, and the Virgin Islands. Contact is made via the SEAs, which identify within-state clients requiring assistance.

– American Alliance for Health, Physical Education, Recreation, and Dance (AAHPERD)
Unit on Programs for the Handicapped
1201 Sixteenth Street, N. W.
Washington, D. C. 20036
(202) 833-5547

This unit provides information and support services to practitioners involved in physical education and recreation programs for the handicapped; e.g., reprints of selected journal articles and hard-to-find documents, topical information packets, customized information searches, consultation services, and relevant publications such as Applications of P.L. 94-142 and the Rehabilitation Act of 1978 to Physical Education, Recreation, and Sports: Selected Reprints.

– Center for Innovation in Teaching the Handicapped (CITH)
Director, Indiana University
2805 East Tenth Street
Bloomington, Ind. 47401
(812) 337-5847

The projects and materials of the center, which is funded by BEH, focus upon the formal education of handicapped children and their instructors, with a current emphasis on "mainstreaming" mildly handicapped students into regular classes. This "mainstream" tutorial project has developed self-instructional modules for teachers and administrators to provide the necessary skills to set up peer, volunteer, and parent tutoring programs.

– The Center on Human Policy
216 Ostrom Avenue
Syracuse, N. Y. 13210
(315) 423-3851

Information concerning the needs and rights of the handicapped, published by The Human Policy Press, is available from The Center on Human Policy.

– Children's Defense Fund (CDF)
1520 New Hampshire Avenue, N. W.
Washington, D. C. 20036
(202) 483-1470

This is a national nonprofit organization for children's advocacy. It provides technical assistance to community groups and individuals regarding federal laws and programs. CDF researches and documents the extent of specific problems and publishes findings and recommendations based upon its investigations.

- Closer Look
  The National Information Center for the Handicapped
  P. O. Box 1492
  Washington, D. C. 20013
  (202) 833-4160

  This national information center assists parents in locating appropriate educational programs and special services. It provides an information packet that outlines practical, step-by-step procedures for dealing with various disabilities.

- National Information Center for Special Education Materials (NICSEM)
  Director, University of Southern California
  Research Annex, University Park
  Los Angeles, Calif. 90007
  (800) 421-7811

  NICSEM is a bibliographical computerized information-retrieval system under contract with BEH. It provides a wide range of print and nonprint information on special education that can be made available through master catalogs, microfiche, and on-line computer searches. These services are accessible to counselors, researchers, university teacher-training personnel, librarians, and parents of handicapped individuals.

- Periodicals, Newsletters, Publishers Catalogs (Idea Sources)
  Some suggested publications follow:

  - Exceptional Children
    Teaching Exceptional Children
    Update
    Council for Exceptional Children (CEC)
    1920 Association Drive
    Reston, Va. 22091
    (800) 336-3728

    CEC is a professional organization addressing the educational needs of all exceptional children. The listed publications are included with membership. CEC also publishes texts, bibliographies, and abstracts.

  - Education of the Handicapped
    Capitol Publications, Inc.
    Suite G-12
    2430 Pennsylvania Avenue, N. W.
    Washington, D. C. 20037
    (202) 452-1600

This biweekly news service provides information on federal legislation, programs, and funding for special education.

– TASH Newsletter
Journal of the Association for the Severely Handicapped
The Association for the Severely Handicapped (TASH)
Garden View Suite
1600 West Armory Way
Seattle, Wash. 98119
(206) 283-5055

This newsletter/journal to members contains information about resources for severely and profoundly handicapped students and their instructors as well as current research in the field.

– In the Mainstream
Mainstream, Inc.
1200 15th Street, N. W.
Washington, D. C. 20005
(800) 424-8089

This free bimonthly newsletter provides information about federal laws and regulations protecting the employment and educational rights of the disabled.

– Amicus
National Center for Law and the Handicapped (NCLH)
211 West Washington Street, Suite 1900
South Bend, Ind. 46601
(219) 288-4751

This bimonthly publication is designed to monitor and report developments in the law as they relate to the disabled.

– The Directive Teacher
National Center, Educational Media and Materials for the Handicapped (NCEMMH)
The Ohio State University
356 Arps Hall
1945 North High Street
Columbus, Ohio 43210
(614) 422-7596

This publication, free upon request, contain articles about instructional materials and programs for handicapped learners.

Q. What can I do to assist in the effective management of the IEP team?

A. You can seek assistance from appropriate agencies/resources, deal with conflict situations, effectively manage data, and provide role-play situations to develop the necessary skills.

ACTIVITY B-1

Agency Assistance

Objective: To identify appropriate agencies/resources that can assist in the development/implementation of the IEP

Materials: One or more of the references from sources below

Procedure: Listed below are agencies/resources that provide assistance in the development and implementation of the IEP. Try to become familiar with them, and contact those that might best meet your needs.

- Learning Resources Branch
  Bureau of Education for the Handicapped (BEH)
  400 Maryland Avenue, S. W.
  Washington, D. C. 20202
  (202) 472-4650

  There are 16 Regional Resource Centers (RRCs) designed to provide technical assistance in all aspects of the IEP process, including the following: appraisal, program development and implementation, placement procedures, evaluation of child performance, and annual review of the IEP. Contact the Washington, D. C., office for information about programs and services in individual states, as well as for a directory of the RRCs and Direction Service Centers.

- National Diffusion Network (NDN)
  State Facilitator
  State Department of Education (your state)

  NDN is designed to help local school districts adopt innovative educational programs that have been developed with federal funds. Many of these model programs include curriculum products and training programs useful in developing IEPs. The following catalog, updated annually, describes NDN exemplary programs and lists NDN State Facilitator Projects:

  Educational Programs that Work
  Far West Laboratory for Educational Research and Development
  1855 Folsom Street
  San Francisco, Calif. 94103
  (415) 565-3076

- National Association of State Directors of Special Education (NASDSE)
  1201 Sixteenth Street, N. W.
  Suite 610E
  Washington, D. C. 20036
  (202) 833-4218

  NASDSE provides in-service workshops addressing all aspects of the IEP process for LEAs wishing to develop trainers. In addition, the following publications are available: A Resource Manual for Individualized Education Programs; Guide for Trainers: A Resource for Workshops on Developing Individualized Education Programs; Summary of Research Findings on Individualized Education Programs; and Implementation of Individualized Education Programming: Some Observations and Recommendations.

ACTIVITY B-2 **Conflict Resolution: Dealing Effectively with Conflict Situations**

Objective: To develop methods for dealing with possible conflicts during the IEP planning and implementation process

Materials: None

Procedure: Listed below are tips on dealing with conflict situations. Deal with each of these areas by:

- Developing Communication Skills among Educational Staff
  If educational staff are to plan effectively with each other as well as with outside professional and lay persons, they must be able to communicate effectively. Communication, as defined here, involves the establishment of an environment conducive to planning, expressing one's view clearly and succinctly, and listening to and understanding the views of others.

  There are several ways an administrator can foster effective communication among his/her educational staff:
  - In meetings as well as in individual encounters with staff members reinforce the use of effective communication skills by staff;
  - Arrange for communication skill development in in-service workshops for the educational staff; and
  - Make known to staff members the need to develop effective communication skills and provide pertinent literature in the staff reference library.
- Structuring Team Meetings
  If a team meeting is structured so that the goals of the meeting are clear and the team members are aware of their own role expectations and the expectations of others, possible conflict can be minimized.

The following suggestions may help to structure team meetings:

- The goal(s) of the team meeting must be stated clearly (e.g., determine the nature of the child's handicap, develop an appropriate program, review the child's IEP); an agenda (that is, the activities needed to reach that goal) must be developed (e.g., each team member presents his/her findings in a specified order, questions are raised and discussed, recommendations are formulated); and agreement among team members as to the goals and agenda must be secured.
- Team members can become aware of their own role expectations if the administrator and team members clarify the following: the type of information each team member is to provide, how that information will be communicated, and the role of each team member in the decision-making process.
- Team members can become aware of the role expectations of other members by observing them at work, talking with them about their roles, reading their written reports, and participating in role-play situations.

- Managing Conflict During the IEP Process

Essex (unpublished manuscript, 1980) has developed a multiple-level approach to conflict resolution in the IEP process. Essentially, procedures other than a due-process hearing are explored as alternatives. The hierarchy includes:

- Conciliation. This is an informal conference requiring a minimum of structure and no third party. It is recommended as a starting point for all dispute settlements. Situations conducive to this stage of resolution are issues involving proposed program changes, such as movement of a child from a special education self-contained classroom to a resource room.
- Mediation. Mediation procedures are classified under three headings: procedural functions, communication functions, and affirmative and substantive functions. The use of a third-party mediator may be most appropriate in cases where compromise is possible, such as where members agree that a child is handicapped but disagree about the the degree of service required.
- Fact finding. This procedure does not involve mediation, but assumes that facts alone will help to solve the dispute. It may be best used in situations where there is a great deal of data requiring careful sorting and examination. Such a case is where the child has received many different types of special services and yet another is being recommended.
- Formal due-process hearing. This procedure most closely approximates arbitration by a third party. A due-process hearing officer prepares a kind of fact-finding report to describe findings at the end of the hearing.

This procedure is suggested only when all others have been tried and failed. A typical situation is where the identification of a child's handicap is in question and there are no clear guidelines as to the meaning of labels.

- Developing Conflict-Resolution Skills via Training Packages
  Training packages are available that attempt to develop the skills to resolve conflict among educational staff members. Some are listed below. For further information concerning these packages contact:

  Louellen N. Essex, Ph.D.
  Richard Weatherman, Ph.D.
  Staff Development Consultants
  P. O. Box 14493
  Minneapolis, Minn. 55414
  (612) 644-9607 or (612) 647-5826

  – Conflict Management in Special Education
    This training package provides the materials (1 trainer's manual, 30 participants manuals, and 2 overhead transparency sets) for a 1½-day workshop for school personnel. Topics addressed include self-assessment of personal conflict-management style, guidelines for using personal conflict-management styles, group problem-solving methods, understanding the conflict process, and application of techniques to due-process procedures in special education.
  – Team Building in Special Education
    This 1½-day workshop for educational personnel includes 1 trainer's manual, 30 participant manuals, and 2 overhead transparency sets. Activities include self-assessment and interpretation of personal interaction mode in groups; interpersonal communication in groups; managing conflict within teams; and structuring team meetings for referral review, assessment, individualized educational planning, and periodic reviews.

ACTIVITY B-3 **Data Management**

Objective: To develop effective management of data regarding the implementation of P.L. 94-142

Materials: None

Procedure: Listed on the following pages are the areas in which procedures and forms may help manage data. In order to determine how data in particular school situations might be handled, brainstorming among concerned staff members is often fruitful. Consider each suggestion in light of the needs of your specific educational system.

Procedures and forms should be developed as guidelines for staff members to efficiently obtain and concisely communicate necessary information.

- Referral Process
  The referral process can often be improved if personnel are instructed in referral procedures via detailed documents or in-service training. In addition, though referral forms are usually brief in order to expedite the process, Moran* suggests the components that may help screen out inappropriate referrals:
  - Accompany the referral with all readily available information to the person referring;
  - Report attempted interventions with the student and their effect; and
  - Formulate a statement of what the referring party wants to know in order to appropriately instruct the student.
- Staff Reports
  In order to enable a consistent and concise flow of information, a format for staff reports may be established. An example follows. Consult educational staff members to construct the format most appropriate for your educational system.

Title of Report
(e.g., Educational Evaluation)

Name of student: _____ **Grade last completed:** _____

Birth date: _____ **(Grade and school)** _____

Age at testing: _____ **Date(s) of evaluation:** _____

Reason for referral: _____

Background information: _____

Interview and observation: _____

Test findings: _____

Discussion of test findings, interview, and observation: _____

Recommendations: _____

_____

_____

*Moran, M. F. The teacher's role in referral for testing and interpretation of reports. Focus on Exceptional Children. 1976, 8, 1-15.

- Meetings
  Procedures for data dissemination at IEP meetings help the planning process. The following procedures should be considered:
  - what and how information is to be communicated by team members;
  - who is responsible for writing the IEP;
  - who is responsible for implementing each facet of the IEP; and
  - who is responsible for chairing the IEP meeting. (The responsibility for chairing the meeting is usually that of the LEA representative; however, it need not be.)
- Storing of Pertinent Data
  It is recommended that all pertinent information on a student be housed in one location. Some school districts use a central filing system. Due to the need for both confidentiality and accessibility, it may be helpful to house all information on a child in the office of one member of the staff, such as that child's guidance counselor. That staff member becomes responsible for storing the information as well as for gathering and distributing necessary data.

ACTIVITY B-4 **Role Play: IEP Conference**

Objective: To provide personnel with training in the skills to work together effectively in developing an IEP

Materials: Several hypothetical profiles and IEPs

Participants: At least three members of the educational staff

Procedure: Have the educational staff role play some of the situations listed below. Vary the roles so that each has an opportunity to play the three necessary team members; i.e., teacher, LEA representative, and parent. Every role player should have an opportunity to review each hypothetical IEP and background information prior to the activity. A realistic time limit should be set for each situation, and role players should be encouraged to address the situation within a reasonable period of time.

Situations:

- The team is composed of teacher, LEA representative, and parent. They are meeting to determine the nature of the child's handicap and develop an appropriate program. The child is considered mildly handicapped. The parent is hesitant to participate.
- The team is composed of teacher, LEA representative, and parent. They are meeting to determine the nature of the child's handicap and to develop an appropriate program. The child is considered mildly handicapped. The parent is eager to participate and has experience in education.

- The team is composed of teacher, LEA representative, parent, nurse, and psychologist. They are meeting to determine the nature of a mildly handicapped child's handicap and to develop an appropriate program. The following concerns are expressed: The teacher is concerned with learning problems, the nurse with the child's need for medication, and the psychologist with the child's emotional status.
- The team is composed of teacher, LEA representative, parent, psychologist, nurse, and state mental health/mental retardation institution representative. They are meeting to determine an appropriate program for a severely handicapped child. There is question as to whether the public school can provide an appropriate program. The parent is undecided as to how best to meet the needs of his/her child.

Q. How can I develop public awareness of the concerns and issues in the implementation of P.L. 94-142?

A. You can stimulate awareness through materials prepared primarily by school personnel as well as through school-community activities. Examples are a school-published newsletter, public displays in the school of materials/activities, parent/community group activities, and volunteer programs.

ACTIVITY C-1 **Newsletter**

Objective: To disseminate information to parents and other community members concerning the nature and role of special education in the school and the community

Materials: Editorial and production staff, printing equipment, dissemination capability

Procedure: Issue a newsletter specific to the activities of special education or add a special education section to an existing one. Include information about current special education programs, materials, and extracurricular activities in the school; how these activities/materials are integrated and benefit the whole school community; and upcoming events, such as parent group meetings, film showings, workshops, student events, and so on.

ACTIVITY C-2 **Public Displays**

Objective: To make available to the community and school visitors products and information concerning special education activities

Materials: Display area and equipment (e.g., bulletin board, showcases)

Procedure: In a central location, display products developed by students receiving special education services (e.g., art work, wood-shop constructions, newspapers). Photographs of activities in which special education students are engaged can also be shown; e.g., sports competitions, plays, public-address broadcasting, newsletter work, student-store workers, cafeteria workers, out-of-school apprentices, in-class tutorial-work, and class environments (e.g., vocational education settings, resource-room settings). It is important that these activities not be singled out as special education activities. Rather, the intent is to display worthwhile activities that are conducted by all members of the school, including special education activities.

ACTIVITY C-3 **Parent/Community Group Activities**

Objective: To meet the needs of handicapped students and their parents regarding the nature and role of special education in the school

Materials: As listed under each suggestion

Procedure: Plan parent group activities that the school system can sponsor. The activities should reflect the needs of the community. Examples are:

- Parent Advisory Council
  In order to promote parental understanding and participation, establish a parent advisory council. As described by Kroth and Scholl*, a superintendent of a medium-size school district started an information program on the role and responsibilities of advisory councils. Educational staff members prepared a series of presentations on appropriate activities and conducted informal discussions with parents about their decision-making role. As a result, a parent advisory council was established in that district.
- Workshops
  Conduct a workshop designed to develop any of the following: awareness of the strengths and needs of handicapped individuals who live in the community, awareness of community services to help handicapped individuals, and the skills to work with and manage the handicapped child in the home. For example, an awareness workshop could deal with accessibility; i.e., an activity to make parents aware of the physical barriers to handicapped persons (e.g., those in wheelchairs, those who are blind, those who are deaf) in their school environment.
  - Accessibility Workshop
    The materials required are: measuring tape, paper and pencil, wheel-

*Kroth, R. L., & Scholl, G. T. Getting schools involved with parents. Reston, Va.: Council for Exceptional Children, 1978.

chair, blindfold, and ear plugs. To develop an awareness of the difficulties faced by those using a wheelchair, the following activities could be conducted: measure all wheelchair dimensions; measure potential barriers (doorways, toilet and stalls, bus doors, rails that separate cafeteria lines, and height of public phones); and compare these measurements to see how many would pose problems to wheelchair users. Sit in a wheelchair and maneuver through the school, trying to use water fountains, phones, toilets, food counter, and so on. Participants could also use eye coverings and/or ear plugs and then attempt to engage in normal everyday activities.

– The Art of Parenting
Source: Bill Wagonseller
University of Nevada
Reno, Nev. 87507
(702) 784-1110

This commercial in-service program, developed for parent trainers and parents, consists of cassette tapes, filmstrips, manuals, and workbooks. Common problems treated include the following: parent/child conflict, learning problems, behavior problems, and parent/teacher conflict.

ACTIVITY C-4 **Volunteer Programs**

Objective: To develop awareness among community members and encourage their participation in the educational process

Materials: None

Procedure: Many different types of volunteer programs can be established. Parents can serve as aides in the classroom; both handicapped and nonhandicapped workers in the community can offer workshops to all students concerning the nature and requirements of their jobs; and work apprenticeships can be established with local businesses.

The National School Volunteer Program (NSVP) has published a manual entitled The Teamwork Approach: Training for Teachers and Volunteers Working Together. There are seven in-service models included, varying in length, format, purposes, and participants. For further information, contact:

National School Volunteer Program, Inc. (NSVP)
300 North Washington Street
Alexandria, Va. 22314
(703) 836-4880

APPENDIX A

HIGHLIGHTS OF REGULATIONS IMPLEMENTING P.L. 94-142

THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975

A. General Provisions and Definitions

NOTE: Subpart A covers the purposes and applicability of these Regulations and includes definitions of statutory and related terms.

*Purpose of Regulations (§121a.1)**

The purpose of these Regulations is:

- to ensure that all handicapped children have available a Free Appropriate Public Education that includes special and related services to meet their needs;
- to ensure that the rights of handicapped children and their parents are protected;
- to assist states and localities to provide for the education of all handicapped children; and
- to assess and ensure the effectiveness of efforts to educate those children.

Applicability to State, Local, and Private Agencies (§121a.2)

These Regulations apply to:

- each state that receives federal funds under P.L. 94-142;
- each public agency within the state that is involved in the education of handicapped children; e.g., state educational agency (SEA), local educational agency (LEA), departments of mental health and welfare, state school for the deaf, state correctional facilities; and
- each handicapped child who has been referred to or placed in private schools by a public agency.

Definition of Statutory Terms

Free Appropriate Public Education (FAPE) (§ 121a.4)

The term "Free Appropriate Public Education" means special education and related services that:

- are provided at no cost to parents;
- meet standards set by the state;
- include preschool, elementary, and secondary school education in the state; and
- are provided as part of an Individualized Education Program (IEP).

Handicapped Children (§ 121a.5)

The term "handicapped children" means children who are in need of special education and related services because they have been evaluated as:

- mentally retarded
- hard of hearing
- deaf
- speech impaired
- visually handicapped
- seriously emotionally disturbed
- orthopedically impaired
- other health impaired
- deaf-blind

*The numbers in parentheses are the legal Section citations. They allow the reader to locate in the Regulations of Public Law 94-142 the exact wording of the Law regarding a specific term.

- multihandicapped
- having specific learning disabilities

NOTE: See §121a.5(b) for specific definitions for each handicap.

Include (§ 121a.6)

The term "include" means that items named are not all of the possible items covered, which may be like or unlike the ones named.

Intermediate Educational Unit (IU) (§ 121a.7)

The term "intermediate educational unit" is any public agency other than a school district which is supervised by the state, is established by state law to provide free public education on a regional basis, and provides special education and related services to handicapped children in the state.

Local Educational Agency (LEA) (§ 121a.8)

The term "local educational agency" (LEA) is a public board of education or other public authority that is recognized in a state as an administrative agency for its public elementary or secondary schools in a city, county, township, school district, or other subdivision—or a combination of school districts or counties. For the purpose of these Regulations, LEAs include intermediate educational units.

Native Language (§ 121a.9)

Where used with reference to a person of limited English-speaking ability, "native language" means the language that person normally uses, or in the case of a child, the language his/her parents normally use.

NOTE: The Regulations allow for the following exceptions:

1. When there is a difference between the language used by the child and the parents, all direct communication with the child should be in the language he/she normally uses (an important consideration during the evaluation of the child). Similarly, all due-process communications addressed to parents should be in the language used by the parents.
2. When the child/person is blind or deaf or has no written language, the mode of communication should be that normally used by him/her (e.g., sign language, braille, or speech).

Parent (§ 121a.10)

The term "parent" means a parent, a guardian, a person acting as a parent (e.g., a grandparent or stepparent with whom the child lives, as well as persons legally responsible for the child's welfare), or a surrogate parent appointed by a public agency.

Public Agency (§ 121a.11)

The term "public agency" includes the state, school districts, intermediate educational units and other political subdivisions of the state responsible for providing education to handicapped children.

Qualified (§ 121a.12)

The term "qualified" means that a person has met state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which he or she is providing special education or related services.

Related Services (§ 121a.13)

The term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist the handicapped child to benefit from special education. These services include:

- speech pathology and audiology
- psychological services
- physical and occupational therapy
- recreation
- early identification and assessment of disabilities in children

- counseling services
- medical services for diagnostic or evaluation purposes
- school health services
- social work services in school
- parent counseling and training

NOTE:

1. The list of related services is not exhaustive (i.e., services may also include such activities as artistic and cultural programs, art, music, and dance therapy).
2. Only those services deemed necessary to assist the child must be provided.
3. Other kinds of services might be provided by persons from varying professional backgrounds and with a variety of operational titles, depending upon requirements in individual states (e.g., counseling services might be provided by social workers, psychologists, or guidance counselors; and psychological testing might be carried out by qualified psychological examiners, psychometrists, or psychologists).

Audiology (§ 121a. 13(b) (1))

The term "audiology" includes:

- identifying children with hearing loss;
- determining the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
- providing habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
- creating and administering programs for prevention of hearing loss;
- providing counseling and guidance of pupils, parents, and teachers regarding hearing loss; and
- determining the child's need for group and individual amplification; selecting and fitting an appropriate aid; and evaluating the effectiveness of amplification.

Counseling Services (§ 121a.13(b) (2))

The term "counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

Early Identification (§ 121a.13(b) (3))

The term "early identification" means carrying out a formal plan for identifying a disability as early as possible in the child's life.

Medical Services (§ 121a.13(b) (4))

The term "medical services" means services provided by a licensed physician to determine the child's medically related handicapping condition which results in the need for special education and related services.

Occupational Therapy (§ 121a.13(b) (5))

The term "occupational therapy" includes:

- improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
- improving ability to perform tasks for independent functioning when functions are impaired or lost; and
- preventing, through early intervention, initial or further impairment or loss of function.

Parent Counseling and Training (§ 121a.13(b.) (6))

The term "parent counseling and training" means assisting parents in understanding the special needs of their child and providing them with information about child development.

Physical Therapy (§ 121a.13(b) (7))

The term "physical therapy" means services provided by a qualified physical therapist.

Psychological Services (§ 121a.13(b) (8))

The term "psychological services" includes:

- administering psychological and educational tests, and other assessment procedures;
- interpreting assessment results;
- obtaining, integrating, and interpreting information about child behavior and conditions related to learning;
- consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and
- planning, managing and delivering a program of psychological services, including psychological counseling for children and parents.

Recreation (§ 121a.13(b) (9))

The term "recreation" includes:

- assessing and providing leisure/extracurricular activities;
- providing therapeutic recreation services; and
- providing recreation programs in schools and community agencies.

School Health Services (§ 121a.13(b) (10))

The term "school health services" means services provided by a qualified school nurse or other qualified person.

Social Work Services in Schools (§ 121a.13(b) (12))

The term "social work services in schools" includes:

- preparing a social or developmental history on the handicapped child;
- providing group and individual counseling for the child and family;
- working with problems in the child's environment (home, school, and community) that affect adjustment in school; and
- mobilizing school and community resources to enable the child to receive maximum benefit from his/her educational program.

Speech Pathology (§ 121a.13(b) (12))

The term "speech pathology" includes:

- identifying children with speech and/or language disorders;
- diagnosing and appraising specific speech and/or language disorders;
- referring children for medical or other professional attention necessary for the habilitation of speech or language disorders;
- providing speech and language services for the habilitation or prevention of disorders of communication; and
- providing counseling and guidance of parents, children, and teachers regarding speech and language disorders.

Transportation (§ 121a.13(b) (13))

The term "transportation" includes:

- providing for travel to and from school and among schools;
- providing for travel in and around school buildings; and
- furnishing specialized travel equipment (e.g., special or adapted buses, lifts, and ramps) as required for handicapped children.

Special Education (§ 121a.14)

The term "special education" means specially designed instruction, at no cost to the parent, to meet the needs of the handicapped child.

Special education includes:

- providing classroom instruction;
- carrying out instruction in physical education;
- providing home instruction;
- providing instruction in hospitals and institutions;
- providing vocational education instruction; and
- providing related services as defined above.

Physical Education (§ 121a. 14(b) (2))

The term "physical education" means:

- developing physical and motor fitness;
- developing fundamental motor skills and patterns; and
- training skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

Physical education includes:

- providing special physical education;
- providing adapted physical education;
- providing movement education; and
- fostering motor development.

Vocational Education (§ 121a.14(b) (3))

The term "vocational education" means organized educational programs directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

Vocational education includes industrial arts and consumer and homemaking education programs.

State (§ 121a.15)

The term "state" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Parental Consent (§ 121a.500)

The term "parental consent" means that:

- the parent has been fully informed (in his/her native language or other mode of communication) of all information relevant to the activity for which consent is sought;
- the parent understands and agrees in writing to the activity for which consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and
- the parent understands that the granting of consent is voluntary and may be revoked at any time.

Evaluation (§ 121a.500)

The term "evaluation" means the use of specific procedures used selectively with an individual child to determine whether the child is handicapped and the nature and extent of the special education and related services that the child needs.

The term does not include basic tests administered to, or procedures used with, all children in a school, grade, or class.

Personally Identifiable Information (PII) (§ 121a.500)	The term "Personally Identifiable Information" includes: • the name of the child, the child's parent, or other family member; • the address of the child; • a personal identifier (e.g., the child's social security number or student number); and • a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
Public Expense (§ 121a.603(a) (3) (ii))	The term "public expense" means that the public agency either pays for the full cost of a service or ensures that the service is otherwise provided at no cost to the parent.
Independent Educational Evaluation (§ 121a.503(a) (3) (i))	The term "independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child being evaluated.
At No Cost (§121a.14(b)(1))	The term "at no cost" means that special education programs and related services are provided without charge to the parent (including the cost of a residential school). This does not preclude, however, incidental fees normally charged to nonhandicapped students and their parents as part of the regular education program.
Destruction of Information (§ 121a.560)	The term "destruction" when used in relation to education records means physical destruction or removal of personal identifiers from educational records so that information is no longer personally identifiable.
Education Records (§ 121a.560)	The term "education records" means those records directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.
Participating Agency (§ 121a.560)	The term "participating agency" means any agency or institution that collects, maintains, or uses Personally Identifiable Information covered by these regulations or any agency or institution from which such information is obtained.
Individualized Education Program (IEP) (§ 121a.340)	The term "Individualized Education Program" (IEP) means a written statement for each handicapped child that provides, among other things, a prescription for the specific special education programs and related services for each handicapped child.
First Priority Children (§ 121a.320(a))	The term "first priority children" means handicapped children who are not receiving any education at the present time and for whom the state must make available Free Appropriate Public Education.
Second Priority Children (§ 121a. 320(a))	The term "second priority children" means the most severely handicapped children, within each disability, who are receiving an inadequate education at the present time.
Direct Services (§ 121a.370(b) (1))	The term "direct services" means services provided directly to a handicapped child by the state, by contract, or through other arrangements.
Support Services (§ 121a.370(b) (2))	The term "support services" includes: • implementing the comprehensive system of personnel development; • recruiting and training hearing officers and surrogate parents; and • providing public information and parent training activities relating to a Free Appropriate Public Education for all handicapped children.

Private School Handicapped Children (§ 121a.450)	The term "private school handicapped children" means handicapped children enrolled in private schools or facilities who are not placed or referred by public agencies.
B. State Annual Program Plans and Local Applications	
Condition of Assistance (§ 121a.110)	In order to receive funds under Part B of P.L. 94-142 for any fiscal year, a state must submit an annual program plan to the Secretary of Education through its SEA.
Certification by the State Educational Agency and Attorney General (§ 121a.112)	Each state annual program plan must include: • SEA certification that the plan has been adopted by the SEA, and that the plan is the basis for the operation and administration of the activities to be carried out in that state under Part B of P.L. 94-142; and • SEA certification that the SEA has authority under state law to submit the plan and to administer or to supervise it, and that all plan provisions are consistent with state law.
Approval; Disapproval (§ 121a.113)	The Secretary of Education shall approve any state annual program plan that meets the requirements of this Part and Subpart B of Part 100b. The Secretary of Education shall disapprove any annual program plan that does not meet those requirements, but may not finally disapprove a plan before giving reasonable notice and an opportunity for a hearing to the SEA. The Secretary of Education shall use the procedures set forth in § 121a.580-121a.583 of Subpart E for a hearing.
Effective Period of Annual Program Plan (§ 121a.114)	Each state annual program plan is in force from the date it becomes effective through the following June 30. The Secretary of Education may extend the effective period of an annual program plan, on the request of a state, if the plan meets the requirements of this Part and Part B of P.L. 94-142.
Public Participation (§ 121a.120)	Each annual program plan must include procedures ensuring that the requirements of public participation are met. Each annual program plan must also include the following: • a statement describing the methods used by the SEA to provide notice of the public hearings on the annual program plan, including (a) a copy of each news release and advertisement used to provide notice, (b) a list of newspapers and other media in which the SEA announced or published the notice, and (c) the dates on which the notice was announced or published; • a list of the dates and locations of the public hearings on the annual program plan; • a summary of comments received by the SEA and a description of the modifications that the SEA made in the annual program plan as a result of the comments; and • a statement describing the methods by which the annual program plan will be made public after approval by the Secretary of Education.
Right to a Free Appropriate Public Education (§ 121a.121)	Each annual program plan must include information showing that the state has in effect a policy which ensures that all handicapped children have the right to a Free Appropriate Public Education within the age ranges and time lines under P.L. 94-142.

The information must include a copy of each state statute, court order, attorney-general opinion, and other state documents showing the source of the policy.

The information must show that the policy:

- applies to all public agencies in the state;
- applies to all handicapped children;
- implements the priorities established under P.L. 94-142; and
- establishes time lines for implementation of the policy, in accordance with P.L. 94-142.

Time lines and Ages for Free Appropriate Public Education (§ 121a. 122)

Each annual program plan must include in detail the policies and procedures which the state will undertake or has undertaken in order to ensure that a Free Appropriate Public Education is available for all handicapped children ages 3 through 18 within the state not later than September 1, 1978, and for all handicapped children ages 3 through 21 within the state not later than September 1, 1980.

Each annual program plan must include a copy of each state statute, court order, attorney-general decision, and other state documents demonstrating that the state has established time lines in accordance with the preceding paragraph of this Section.

The requirement in the first paragraph of this Section does not apply to a state with respect to handicapped children ages 3, 4, 5, 18, 19, 20, or 21 to the extent that the requirement would be inconsistent with state law or practice, or the order of any court, respecting public education for one or more of those age groups in the state.

Each annual program plan must describe in detail the extent to which the exception in the preceding paragraph of this Section applies to the state, and must include a copy of each state law, court order, and other documents providing a basis for the exception.

Full Educational Opportunity Goal (§ 121a.123)

Each annual program plan must include in detail the policies and procedures which the state will undertake, or has undertaken, in order to ensure that it has a goal of providing full educational opportunity to all handicapped children ages birth through 21.

Full Educational Opportunity Goal–Data Requirement (§ 121a.124)

Beginning with school year 1978-79, each annual program plan must contain the following information:

- the estimated number of handicapped children who need special education and related services;
- the number of handicapped children, ages birth through 2, who are receiving special education and related services;
- the number of handicapped children who are receiving a Free Appropriate Public Education;
- the number of handicapped children who need, but are not receiving a Free Appropriate Public Education;
- the number of handicapped children who are enrolled in public and private institutions where they are receiving a Free Appropriate Public Education;
- the number of handicapped children who are enrolled in public and private institutions and are not receiving a Free Appropriate Public Education;
- the estimated number of handicapped children who are expected to receive special education and related services during the next school year;
- a description of the basis used to determine the data required under this Section; and
- the data required by the above paragraphs of this Section for each disability category (except for children ages birth through 2) and for each of the following age ranges: birth through 2, 3 through 5, 6 through 17, and 18 through 21.

Full Educational Opportunity Goal–Timetable (§ 121a.125)

Each annual program plan must contain a detailed timetable for accomplishing the goal of providing Full Educational Opportunity for all handicapped children.

The timetable must indicate what percentage of the estimated number of handicapped children is expected to have access to Full Educational Opportunity in each succeeding school year.

The data required under this paragraph must be provided for each disability category (except for children ages birth through 2), and for each of the following age ranges: birth through 2, 3 through 5, 6 through 17, and 18 through 21.

Full Educational Opportunity Goal–Facilities, Personnel, and Services (§ 121a.126)

Each annual program plan must include a description of the kind and number of facilities, personnel, and services necessary throughout the state to meet the goal of providing Full Educational Opportunity for all handicapped children. The SEA shall include the data listed below (and whatever additional data are necessary to meet the requirement):

- the number of additional special class teachers, resource-room teachers, and itinerant or consultant teachers needed for each disability category; and the number of each of these currently employed in the state;
- the number of other additional personnel needed, and the number currently employed in the state, including school psychologists, school social workers, occupational therapists, physical therapists, home-hospital teachers, speech-language pathologists, audiologists, teacher aides, vocational education teachers, work-study coordinators, physical education teachers, therapeutic recreation specialists, diagnostic personnel, supervisors, and other instructional and noninstructional staff; and number of personnel reported for this item and their salary costs;
- the number and kind of facilities needed for handicapped children and the number and kind currently in use in the state, including regular classes serving handicapped children, self-contained classes on a regular school campus, resource rooms, private special education day schools, public special education day schools, private special education residential schools, public special education residential schools, hospital programs, occupational-therapy facilities, physical-therapy facilities, public sheltered workshops, private sheltered workshops, and other types of facilities; and
- the number of transportation units needed for handicapped children; the number of transportation units designed for handicapped children in use in the state; and the number of handicapped children who use these units to benefit from special education.

The data required for the above items must be provided as follows:

- estimates of current number of handicapped children who require special education and related services;
- current-year data, based on the actual numbers of handicapped children receiving special education and related services; and
- estimates for the next school year.

Each annual program plan must include a description of the methods used to determine the number and salary costs of personnel.

Priorities (§ 121a.127)

Each annual program plan must include information showing:

- that the state has established priorities that meet the requirements and time lines under the law, or that the state has made progress in meeting those time lines;
- the number of handicapped children known by the state to be in each of the first two priority groups named in P.L. 94-142, both by disability category and by the age ranges; and
- for each of the first two priority groups:, (a) the programs, services, and activities being carried out in the state; (b) the federal, state, and local resources committed during the current school year; and (c) the programs, services, activities and resources to be provided during the next school year.

Identification, Location, and Evaluation of Handicapped Children (§ 121a.128)

Each annual program plan must:

- include in detail the policies and procedures that the state will undertake or has undertaken to ensure that (a) all children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services, are identified, located, and evaluated; and (b) a practical method is developed and implemented to determine which children are and are not currently receiving special education and related services;
- designate the state agency (if other than the SEA) responsible for coordinating the planning and implementing of the policies and procedures under the above paragraphs in this section;
- name each agency that participates in the planning and implementation and describe the nature and extent of its participation;
- describe the extent to which the activities described in the above paragraphs of this Section have been achieved under the current annual program plan, and the planned resources for these activities that have been used;
- describe each type of activity to be carried out during the next school year, including the role of the responsible state agency named above in this section, time lines for completing those activities, resources to be used, and expected outcomes;
- describe how the policies and procedures under the above paragraphs of this section will be monitored to ensure that the SEA obtains (a) the number of handicapped children within each disability category that have been identified, located, and evaluated; and (b) information adequate to evaluate the effectiveness of those policies and procedures; and
- describe the method the state uses to determine which children are and are not currently receiving special education and related services.

Confidentiality of Personally Identifiable Information (§ 121a.129)

Each annual program plan must include in detail the policies and procedures that the state will undertake or has undertaken in order to ensure the protection of the confidentiality of Personally Identifiable Information collected, used, or maintained.

Secretary of Education shall use the criteria in Subpart E to evaluate the policies and procedures of the state described above in this Section.

Individualized Education Programs (§ 121a.130)

Each annual program plan must include:

- information which shows that each public agency in the state maintains records of the IEP for each handicapped child; and that each public agency establishes, reviews, and revises each IEP;
- a copy of each state statute, policy, and standard that regulates the manner in which IEPs are developed, implemented, reviewed, and revised; and
- the procedures which the SEA follows in monitoring and evaluating IEPs.

Least Restrictive Environment (§ 121a.132)

Each state annual program plan must include the following information:

- the number of handicapped children within each disability category who are participating in regular education programs; and
- the number of handicapped children who are in separate classes or separate school facilities, or who are otherwise removed from the regular education environment.

Implementation Procedures –State Educational Agency (§ 121a.136)

Each annual program plan must describe the procedures the SEA follows to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for the handicapped children served by that public agency.

Procedures for Consultation (§ 121a.137)

Each annual program plan must include an assurance that in carrying out the requirements of P.L. 94-142, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents of handicapped children.

Other Federal Programs (§ 121a.138)

Each annual program plan must provide that programs and procedures are established to ensure that funds (received by the state, public agency in the state, or other federal program under which there is specific authority for assistance for the education of handicapped children) are used in a manner consistent with the goal of providing Free Appropriate Public Education for all handicapped children, except that nothing in this Section limits the specific requirements of the laws governing those federal programs.

Recovery of Funds for Misclassified Children (§ 121a.141)

Each annual program plan must include policies and procedures which ensure that the state seeks to recover any funds provided under the Law for services to a child who is judged to be misclassified as eligible.

Control of Funds and Property (§ 121a.142)

Each annual program plan must provide assurance satisfactory to the Secretary of Education that the control of funds provided under P.L. 94-142, and title to property acquired with those funds, are in a public agency for the stated uses and purposes; and that a public agency administers the funds and property.

Records (§ 121a.143)

Each annual program plan must provide for keeping records and affording access to those records, as the Secretary of Education may find necessary to assure correctness, verification, and proper disbursement of funds.

Hearing on Application (§ 121a.144)

Each annual program plan must include procedures to ensure that the SEA does not take any final action with respect to an application submitted by an LEA before giving the latter reasonable notice and an opportunity for a hearing.

Prohibition of Commingling (§ 121a.145)

Each annual program plan must provide assurance satisfactory to the Secretary of Education that funds provided under P.L. 94-142 are not commingled with state funds.

Annual Evaluation (§ 121a.146)

Each annual program plan must include procedures for evaluation, at least annually, of the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of IEPs.

Policies and Procedures for Use of Funds (§ 121a.148)

Each annual program plan must set forth policies and procedures designed to ensure that funds paid to the state under P.L. 94-142 are spent in accordance with its provisions.

Description of Use of Funds (§ 121a.149)

Each annual program plan must include the following information about the state's use of P.L. 94-142 funds:

- a list of administrative positions and a description of duties for each person whose salary is paid in whole or in part with those funds;
- the percentage of salary for each position paid with those funds;
- a description of each administrative activity the SEA will carry out during the next school year with those funds; and
- a description of each direct service and each support service which the SEA will provide during the next school year with those funds, and the activities the state advisory panel will undertake during that period with those funds.

Each annual program plan must also include:

- an estimate of the number and percentage of LEAs in the state which will receive an allocation under P.L. 94-142;

- an estimate of the number of LEAs which will receive an allocation under a consolidated application;
- an estimate of the number of consolidated applications and the average number of LEAs per application; and
- a description of direct services the SEA will provide.

Nondiscrimination and Employment of Handicapped Individuals (§ 121a.150)

Each annual program plan must include an assurance that the program assisted under P.L. 94-142 will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The SEA may incorporate this assurance by reference if it has already been filed with the Department of Education.

Submission of Application by Local Educational Agency (§ 121a.180)

In order to receive payments under P.L. 94-142 for any fiscal year, an LEA must submit an application to the SEA.

Responsibilities of State Educational Agency (§ 121a.181)

Each SEA shall establish the procedures and format that an LEA uses in preparing and submitting its application.

The Excess Cost Requirement (§ 121a.182)

An LEA may only use funds under P.L. 94-142 for the excess costs of providing special education and related services for handicapped children.

Meeting the Excess Cost Requirement (§ 121a.183)

An LEA meets the excess-cost requirement if it has on the average spent at least the amount determined under §121a.184 for the education of each of its handicapped children. This amount may not include capital outlay or debt service.

Each LEA must keep records adequate to show that it has met the excess-cost requirement.

Excess Costs–Computation of Minimum Amount (§ 121a.184)

The minimum average amount an LEA must spend under §121a.183 for the education of each of its handicapped children is computed as follows:

- Add all expenditures of the LEA in the preceding school year, except capital outlay and debt service, (a) for elementary school students if the handicapped child is an elementary school student or (b) for secondary school students if the handicapped child is a secondary school student.
- From this amount, subtract the total of the following amounts spent for elementary school students or for secondary school students: (a) amounts the agency spent in the preceding school year from funds awarded under P.L. 94-142 and Titles I and VII of the Elementary and Secondary Education Act of 1965; and (b) amounts from state and local funds which the agency spent in the preceding school year for programs for handicapped children, educationally deprived children, and children with limited English-speaking ability.
- Divide the result by the average number of students enrolled in the LEA in the preceding school year (a) in its elementary schools if the handicapped child is an elementary school student or (b) in its secondary schools if the handicapped child is a secondary school student.

Computation of Excess Costs– Consolidated Application (§ 121a.185)

The minimum average amount under §121a.183 where two or more LEAs submit a consolidated application, is the average of the combined minimum average amounts determined under §121a.184 in those agencies for elementary or secondary school students.

Excess Costs–Limitation on Use of Part B funds (§ 121a.186)

The excess-cost requirement:

- prevents an LEA from using P.L. 94-142 funds to pay for all of the costs directly attributable to the education of a handicapped child, subject to the following paragraph; and

- does not prevent an LEA from using these funds to pay for all of the costs directly attributable to the education of a handicapped child in any of the age ranges 3, 4, 5, 18, 19, 20 or 21, if no local or state funds are available for nonhandicapped children in that age range.

NOTE: However, the LEA must comply with the nonsupplanting and other requirements in providing the education and services.

Consolidated Applications (§ 121a.190)

LEAs may submit a consolidated application for payments under P.L. 94-142.

A SEA may require LEAs to submit a consolidated application for payments if the SEA determines that an individual application will be disapproved because (a) the LEA's entitlement is less than the $7,500 minimum required or (b) the LEA is unable to establish and maintain programs of sufficient size and scope to meet the educational needs of handicapped children.

Payments Under Consolidated Applications (§ 121a.191)

If a consolidated application is approved by the SEA, payments to the participating LEAs must be equal to the sum of the entitlements of the separate LEAs.

State Regulation of Consolidated Applications (§ 121a.192)

The SEA shall issue regulations with respect to consolidated applications.

These regulations must provide participating LEAs with joint responsibilities for implementing programs receiving payments. If an intermediate educational unit is required under state law to carry out this part, the joint responsibilities given to LEAs do not apply to the administration and disbursement of any payments received by the intermediate educational unit. Those administrative responsibilities must be carried out exclusively by the intermediate educational unit.

State Educational Agency Approval; Disapproval (§ 121a.193)

An SEA shall approve (disapprove) an application submitted by an LEA if the SEA determines that the application meets (does not meet) the requirements under P.L. 94-142. However, the SEA may not approve any application until the Secretary of Education approves its annual program plan for the school year covered by the application.

Withholding (§ 121a.194)

If an SEA, after giving reasonable notice and an opportunity for a hearing to an LEA, decides that the LEA in the administration of an SEA-approved application has failed to comply with any requirement, the SEA, after giving notice to the LEA shall (a) make no further payments to the LEA until the SEA is satisfied that there is no longer any failure to comply with the requirement, or (b) consider its decision in its review of any application made by the LEA.

Local Educational Agency Applications: Child Identification (§ 121a.220)

Each application must include procedures which ensure that all handicapped children (regardless of the severity of handicap) residing within the jurisdiction of the LEA who need special education and related services are identified, located, and evaluated, including a practical method of determining which children are and are not currently receiving needed special education and related services.

Confidentiality of Personally Identifiable Information (§ 121a.221)

Each application must include policies and procedures which ensure that the criteria for the confidentiality of Personally Identifiable Information are met.

Full Educational Opportunity Goal Timetable (§ 121a.222)

Each application must include:

- a goal of providing Full Educational Opportunity to all handicapped children ages birth through 21, and
- a detailed timetable for accomplishing the goal.

Facilities, Personnel, and Services (§ 121a.223)	Each application must provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal of Full Education Opportunity.
Personnel Development (§ 121a.224)	Each application must include procedures for the implementation and use of the comprehensive system of personnel development established by the SEA.
Parent Involvement (§ 121a.226)	Each application must include procedures to ensure that, in meeting the full educational opportunity goal, the LEA makes provision for participation of and consultation with parents or guardians of handicapped children.
Participation in Regular Education Programs (§ 121a.227)	Each application must describe: • procedures to ensure that, to the maximum extent practicable and consistent with § 121a.550 and § 121a.-553 of P.L. 94-142 the LEA provides special services to enable handicapped children to participate in regular educational programs; • types of alternative placements that are available for handicapped children; and • numbers of handicapped children within each disability category who are served in each type of placement.
Public Control of Funds (§ 121a.228)	Each application must provide assurance satisfactory to the SEA that control of funds provided under Part B of P.L. 94-142, and title to property acquired with those funds, are in a public agency for the uses and purposes under this part, and that a public agency administers the funds and property.
Excess Cost (§ 121a.229)	Each application must provide assurance satisfactory to the SEA that the LEA uses funds provided under P.L. 94-142 only for costs which exceed the amount computed under §121a.184 and which are directly attributable to the education of handicapped children.
Nonsupplanting (§ 121a.230)	Each application must provide assurance satisfactory to the SEA that the LEA uses funds provided under P.L. 94-142 to supplement and, to the extent practicable, increase the level of state and local funds expended for the education of handicapped children, and in no case to supplant those state and local funds. The total amount or average per-capita amount of state and local school funds budgeted by the LEA for expenditures in the current fiscal year for the education of handicapped children must be at least equal to the total amount or average per-capita amount of state and local school funds actually expended for the education of handicapped children in the most recent preceding fiscal year for which the information is available. Allowance may be made for (a) decreases in enrollment of handicapped children, and (b) unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities.
Comparable Services (§ 121a.231)	An LEA may not use funds under P.L. 94-142 to provide services to handicapped children unless the agency uses state and local funds to provide services which, taken as a whole, are at least comparable to services provided to other handicapped children in that LEA.
Information–Reports (§ 121a.232)	Each application must provide that the LEA furnishes information as may be necessary to enable the SEA to perform its duties, including information relating to the educational achievement of handicapped children participating in the LEA's programs for them. In the case of reports relating to performance, the information must be in accordance with specific performance criteria developed by the LEA and related to program objectives.
Public Participation (§ 121a.234)	Each application must ensure that it and all documents related to it are made available to parents and the general public; however, the LEA is not required to hold public hearings.

Nondiscrimination and Employment of Handicapped Individuals (§ 121a.239)

Each application must include an assurance that the program assisted under P.L. 94-142 will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The LEA may incorporate this assurance by reference if it has already been filed with the Education Department.

Use of Part B Funds (§ 121a.262)

The Department of Interior may use 5% of its payments in any fiscal year or $200,000, whichever is greater, for administrative costs in carrying out P.L. 94-142 provisions.

Public Participation in Hearings Before Adopting an Annual Program Plan (§ 121a.280)

Prior to its adoption of an annual program plan, the SEA shall:

- make the plan available to the general public;
- hold public hearings; and
- provide an opportunity for comment by the general public on the plan.

Notice (§ 121a.281)

The SEA shall provide notice to the general public of public hearings.

The notice must be in sufficient detail to inform the public about:

- the purpose and scope of the annual program plan and its relation to P.L. 94-142;
- the availability of the annual program plan;
- The date, time, and location of each public hearing;
- the procedures for submitting written comments about the plan; and
- the timetable for developing the final plan and submitting it to the Secretary of Education for approval.

The notice must be published or announced:

- in newspapers or other media, or both, with circulation adequate to notify the general public about the hearings; and
- enough in advance of the date of the hearings to afford interested parties throughout the state a reasonable opportunity to participate.

Opportunity to Participate; Comment Period (§ 121a.282)

The SEA shall conduct the public hearings at times and places that afford interested parties throughout the state a reasonable opportunity to participate.

The plan must be available for comment for a period of at least 30 days following the date of the notice of public hearings.

Review of Public Comments Before Adopting Plan (§ 121a.283)

Before adopting its annual program plan, the SEA shall:

- review and consider all public comments, and
- make any necessary modifications in the plan.

Publication and Availability of Approved Plan (§ 121a.284)

After the Secretary of Education approves an annual program plan, the SEA shall give notice in newspapers or other media, or both, that the plan is approved. The notice must name places throughout the state where the plan is available for access by any interested person.

C. Services

NOTE: Subpart C contains provisions governing the required major service components. These include:

1. Free Appropriate Public Education
2. Full Educational Opportunity goal
3. Priorities in the use of Part B funds
4. Individualized Education Program (IEP)
5. Direct services by the state
6. Comprehensive system of personnel development

FAPE: Free Appropriate Public Education

Time lines for Providing Free Appropriate Public Education (FAPE) (§ 121a.300)

The Regulations require that:

- by September 1, 1978, each state must ensure that Free Appropriate Public Education is available to all handicapped children ages 3 through 18; and
- by September 1, 1980 each state must ensure that Free Appropriate Public Education is available to all handicapped children ages 3 through 21.

This requirement does not apply to age groups 3 through 5 and 18 through 21 if it is "inconsistent" with state laws and court orders governing the provision of free public education to handicapped children in that state.

Public and Private Residential Placement (§ 121a.302)

If placement of a handicapped child in a public or private residential special education program is necessary, the program, including nonmedical care and room and board, must be provided at no cost to the parents.

This requirement applies only to placements that are made by public agencies for educational purposes, and includes placements in state-operated schools for the handicapped (e.g., state school for the deaf or blind).

Proper Functioning of Hearing Aids (§ 121a.303)

Each public agency must ensure that the hearing aids worn by deaf and hard-of-hearing children in school are working properly.

Full Educational Opportunity Goal (§ 121a.304)

Each state must ensure that each public agency establishes and implements a goal of providing Full Educational Opportunity to all handicapped children served by that agency.

NOTE:

1. In meeting the Full Educational Opportunity Goal, LEAs are encouraged to include artistic and cultural activities in programs.
2. To understand the full impact of this provision, the distinction between the terms "Free Appropriate Public Education" and "Full Educational Opportunity Goal" is outlined below.

Free Appropriate Public Education:

- must be made available to all handicapped children within the specific mandated time lines and age ranges, and
- must include special education and related services provided in accordance with an IEP.

Full Educational Opportunity Goal:

- is an all-encompassing term and therefore broader in scope than Free Appropriate Public Education;
- covers all handicapped children ages birth through 21;
- includes a basic planning dimension (including making projections of estimated number of handicapped children);

- permits each agency to establish its own timetable for meeting the goal; and
- calls for the provision of additional facilities, personnel, and services to further enrich a handicapped child's educational opportunity beyond that mandated by the Free Appropriate Public Education requirements.

The term "goal" means an end to be sought. While an agency may never achieve its goal in the absolute sense, it must be committed to striving for the goal and must comply with the policies and procedures in the annual program plan. Finally, this provision DOES NOT relieve the agency from its obligations under the Free Appropriate Public Education requirement.

Program Options (§ 121a.305)

Each public agency must ensure that handicapped children have available the variety of educational programs and services available to nonhandicapped children, including art, music, industrial arts, consumer and homemaking education, and vocational education.

Provision of Nonacademic Services (§ 121a.306)

Each public agency must take steps to provide all handicapped children with an equal opportunity to participate in nonacademic and extracurricular services and activities.

Nonacademic and extracurricular services and activities may include:

- counseling services
- athletics
- transportation
- health services
- recreational activities
- special interest groups or clubs sponsored by the public agency
- referral to agencies that provide assistance to handicapped persons
- employment of students (including both employment by the public agency and assistance in generating outside employment)

Physical Education (§ 121a.307)

Physical education services, either in the regular physical education program or in a specially designed physical education program, must be made available to every handicapped child receiving a Free Appropriate Public Education.

Regular Physical Education (§ 121a.307(b))

Each handicapped child must be afforded the opportunity to participate in the regular physical education program available to nonhandicapped children unless:

- the child is enrolled full-time in a separate facility; or
- the child needs specially designed physical education, as prescribed in his/her IEP.

Special Physical Education (§ 121a.307(c))

If a specially designed physical education program is prescribed, the public agency must provide the services directly or make arrangements for them to be provided through other public or private programs.

Physical Education Services in Separate Facilities (§ 121a.307(d))

If a handicapped child is enrolled in a separate facility, the public agency must ensure that the child receives appropriate physical education services.

Priorities in the Use of Funds Received Under P.L. 94-142

NOTE: The general intent of the provisions in this section is to require each state and LEA to establish priorities with regard to the use of funds received under P.L. 94-142.

Priorities (§ 121a.321 (d))

Each state and school district must use funds received under P.L. 94-142 in the following order of priorities:

- first, to provide Free Appropriate Public Education to first-priority children (i.e., children not receiving any education), including their identification, location, and evaluation; and
- second to provide Free Appropriate Public Education to second-priority children (i.e., children with the severest handicaps who are receiving an inadequate education), including their identification, location, and evaluation.

Programs for First Priority Children During School Year 1977-1978 (§ 121a.322)

If a major component (e.g., qualified teacher of a first-priority child's education program) is not available for school year 1977-78, the public agency must:

- provide an interim program for the child; and
- develop an IEP for full implementation no later than September 1, 1978.

Part B funds may be used for training or other support services by the state or LEA in school year 1977-78 only if all first-priority children in the state have been placed and have available at least an interim program of service.

Service to Other Children (§ 121a.323)

If the state or LEA is providing FAPE to all of its first-priority children, then P.L. 94-142 funds can be used to provide FAPE to:

- handicapped children who are not receiving any education and who are in age groups not covered in the state (e.g., 3 through 5 and 18 through 21); or
- second-priority children; or
- both these groups.

Application of Local Educational Agency to Use Funds for the Second Priority (§ 121a.324)

An LEA may use funds provided under Part B for second-priority children if it provides assurance satisfactory to the SEA in its application (or an amendment to its application) that:

- all first-priority children have a Free Appropriate Public Education available;
- the LEA has a system for the identification, location, and evaluation of handicapped children, as described in its application; and
- whenever a first-priority child is identified, located, and evaluated, the LEA makes available a Free Appropriate Public Education.

Individualized Education Program (IEP)

NOTE: The general intent of the provisions of this section is to ensure that an IEP is developed and implemented for each handicapped child who is being provided with special education and related services by a public agency (including other state agencies such as the departments of mental health and welfare) either directly, by contract, or through other arrangements.

State Responsibility (§ 121a.341)

The state must ensure that:

- each public agency develops and implements an IEP for each of its handicapped children, and
- an IEP is developed and implemented for each handicapped child who is placed in or referred to a private school or facility or is enrolled in a parochial or other private school and receives services from a public agency.

When Individualized Education Program Must be in Effect (§ 121a.342)

On October 1, 1977, and at the beginning of each school year thereafter, each public agency must have in effect an IEP for every handicapped child who is receiving special education from that agency.

An IEP must be in effect before special education and selected services are provided, and must be implemented as soon as possible (i.e., with no undue delay) following the IEP meetings.

NOTE: It is expected that an IEP will be implemented immediately following the IEP meetings, with the following exceptions:

1. when meetings occur during the summer or a vacation period; or
2. when there are circumstances requiring a short delay (e.g., working out transportation arrangements); however, THERE CAN BE NO UNDUE DELAY IN PROVIDING SPECIAL EDUCATION AND RELATED SERVICES TO THE CHILD.

IEP Meetings (§ 121a.343)

In general, each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising a handicapped child's IEP.

For handicapped children currently being served and in need of special education during school year 1977-78, a meeting must be held early enough to ensure the development of an IEP by October 1, 1977.

Meetings for Newly Identified Handicapped Children (§ 121a.343(c))

For all other handicapped children (i.e., new handicapped children initially evaluated after October 1, 1977), a meeting must be held within 30 calendar days after it has been determined that the child needs special education and related services.

Review Meetings (§ 121a.343(d))

A meeting *must* be held at least once a year to review and, if appropriate, revise each child's IEP.

NOTE: The timing of these review meetings could be on the anniversary date of the last IEP meeting, but this is left to the discretion of the agency.

Participants in IEP Meetings (§ 121a.344)

The public agency must ensure that each IEP meeting includes the following participants:

- a representative of the public agency (e.g., the child's teacher or some other person, who is knowledgeable about the evaluation procedures used and familiar with the results of the evaluation);
- the child's teacher;
- one or both of the child's parents;
- the child, when appropriate; and
- other individuals at the discretion of the parent or agency.

For a handicapped child who has been evaluated for the first time, the meeting must also include:

- a member of the evaluation team (e.g., speech-language pathologist for a child whose primary handicap is a speech impairment), or
- a representative of the public agency (e.g., the child's teacher or some other person) who is knowledgeable about the evaluation procedures used and familiar with the results of the evaluation.

NOTE:

1. For deciding which "teacher" or "other person" should participate in IEP meetings, the following guidelines are suggested:
   - For a child currently receiving special education, the teacher could be the child's special education teacher. If the child's handicap is a speech impairment, the teacher could be the speech-language pathologist.

- For a child being considered for placement in special education, the teacher could be the child's regular teacher, or a teacher qualified to provide education in the type of program in which the child may be placed, or both.
- For a child not in school or with more than one teacher, the agency may designate which teacher will participate in the meeting.

2. It is suggested that either the teacher or the agency representative be qualified in the area of the child's suspected disability.
3. It was the intent of Congress that IEP meetings be small, since a large group is often unproductive, costly, and adverse to the purpose of ensuring active, open parent involvement.

Parent Participation at the IEP Meetings (§ 121a.345(a))

To ensure that one or both parents of the child are present at each IEP meeting or are afforded the opportunity to participate, the public agency must:

- notify parents of the meeting early enough to ensure that they will have an opportunity to attend, and
- schedule the meetings at a mutually agreed on time and place (e.g., after school hours if necessary).

Notice of IEP Meetings to Parents (§ 121a.345(b))

The notice to parents must indicate:

- purpose
- time
- location
- who will be in attendence

If neither parent can attend, the agency must use other methods to ensure parent participation, including individual or conference telephone calls.

IEP Meeting Without Parents (§ 121a.345(d))

An IEP meeting can be conducted without a parent if the agency has taken the necessary steps to inform the parent of the importance of the meeting, but cannot convince the parent to attend. In this case, the agency must keep a record of all attempts to arrange a mutually convenient time and place, such as:

- detailed records of telephone calls made or attempted and the results of those calls;
- copies of correspondence sent to the parents and responses received; and
- detailed records of visits to the parent's home or place of employment and the results of those visits.

Interpreter for Parents at IEP Meeting (§ 121a.345(e))

The public agency must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Providing Copies of IEP to Parents (§ 121a.345(f))

Copies of a child's IEP must be made available to parents on request.

Content of the IEP (§ 121a.346)

The IEP of each child must include:

- a statement of the child's present levels of educational performance;
- a statement of annual goals, including short-term instructional objectives;
- a statement of the specific special education and related services to be provided and the extent to which the child will be able to participate in regular educational programs;
- the projected dates for initiation of services and the anticipated duration of the services; and
- appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

IEPs for New Private School Placements (§ 121a.347)

Before a handicapped child is placed in or referred to a private school or facility, the public agency must:

- initiate and conduct a meeting to develop an IEP; and
- ensure that a representative from the private school or facility attends the meeting; if the representative cannot attend, other methods (e.g., individual or conference calls) must be used to secure participation.

IEPs for Current Private School Placements (§ 121a.347 (a))

An IEP must be developed for each handicapped child placed in a private agency prior to October 1, 1977.

Reviewing and Revising IEPs at Private Schools (§ 121a.347(b))

After a child is placed in a private school or facility:

- meetings to review and revise IEPs can be initiated and conducted by the private school AT THE DISCRETION OF THE PUBLIC AGENCY, and
- the public agency must ensure that parents and an agency representative are involved in any decision about the IEP and agree to proposed changes before those changes take place.

Responsibility for Full Compliance with Regulations (§ 121a.347(c))

The public agency and the state are responsible for ensuring that the private school or facility is in full compliance with these regulations.

Handicapped Children in Parochial or Other Private Schools (§ 121a.348)

If a handicapped child is enrolled in a parochial or other private school and receives special education or related services from a public agency, the public agency shall:

- initiate and conduct meetings to develop, review, and revise an IEP; and
- ensure that a representative of the parochial or other private school attends each meeting.

NOTE: If the private school representative cannot attend, the agency shall use other methods to secure participation by the private school, including individual or conference telephone calls.

IEP Accountability (§ 121a.349)

If a child does not achieve the growth projected in the annual goals and the objectives stated in an IEP, NOTHING IN THE STATUTE OR IN THESE REGULATIONS HOLDS THE PUBLIC AGENCY, TEACHER, OR OTHER PERSON ACCOUNTABLE.

NOTE: The IEP is not a legally binding document. For that reason the public agency and teacher are relieved from the guarantee that the child will progress at the specified rate or achieve the growth projected in the IEP.

On the other hand, this section of the Regulations:

- does not relieve agencies from making "good faith efforts" to assist the child in achieving the objectives and goals stated in the IEP; and
- does not limit the parents' right to complain, ask for revisions, or invoke due-process procedures if they feel that good-faith efforts are not being made.

Since participation of teachers (and other agency staff) in IEP meetings is a statutory requirement, collective-bargaining agreements and individual annual contracts may have to be renegotiated to cover employee participation in the development and review of IEPs. However, for purposes of these Regulations, the collective-bargaining area is considered to be solely within the authority of the public agency and its employees (and their user representatives, if any); therefore, the area is not covered by the Regulations. Where collective-bargaining agreements must be modified to deal with additional duties and compensation for after-hour activities, the public agency must negotiate for modifications which comply with the Statute and Regulations.

Use of Local Educational Agency Allocation for Direct Services (§ 121a.360)

An SEA may not distribute P.L. 94-142 funds to an LEA. The SEA shall use those funds to ensure Free Appropriate Public Education for all handicapped children residing in the LEA service area if the LEA, in any fiscal year:

- is entitled to less than $7,500 for that fiscal year (beginning with fiscal year 1979);
- does not submit an application that meets the requirement of P.L. 94-142;
- is unable or unwilling to establish and maintain programs of Free Appropriate Public Education;
- is unable or unwilling to be consolidated with other LEAs in order to establish and maintain those programs; or
- has one or more handicapped children who can best be served by a regional or state center designed to meet the needs of those children.

In meeting the above requirements, the SEA may provide special education and related services directly, by contract, or through other arrangements.

The excess-cost requirements do not apply to the SEA.

Comprehensive System of Personnel Development

NOTE: As a condition of receiving funds under P.L. 94-142, a state must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development in its annual program plan. The state is responsible for the implementation of all components of the system.

Scope of the Personnel Development System (§ 121a.380)

A comprehensive system must include:

- in-service training of general and special education instructional, related-services, and support personnel (based on the results of an annual needs assessment);
- procedures to ensure that all personnel involved in carrying out the requirements of these Regulations meet the definition of "qualified"; and
- effective procedures for acquiring and disseminating to special education teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting promising educational practices and materials developed through those projects.

Participation of Other Agencies and Institutions in the Development, Review and Annual Update of the System (§ 121a. 381)

The state must ensure that all its public and private institutions of higher education, and other agencies and organizations (including representatives of handicapped, parent, and other advocacy organizations) with an interest in the preparation of personnel to educate handicapped children, have an opportunity to participate fully in the development, review, and annual updating of the comprehensive system of personnel development.

Annual Personnel Needs Assessment (§ 121a.382(b))

The state must conduct an annual needs assessment to determine if it has a sufficient number of qualified personnel.

The result of the needs assessment must indicate the need for:

- new personnel
- retrained personnel

Inservice Training (§ 121a.382(e))

The state must ensure that ongoing in-service training programs are available to all personnel engaged in the education of handicapped children and that these programs include:

- the use of incentives that ensure participation by teachers (e.g., released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills);

- the involvement of local staff; and
- the use of innovative practices proven to be effective.

The state's annual program plan must:

- describe the process used in determining the in-service training needs of personnel engaged in the education of handicapped children;
- identify the areas in which training is needed (e.g., individualized education programs, nondiscriminatory testing, Least Restrictive Environment, procedural safeguards, and surrogate parents);
- specify the groups requiring training (e.g., special teachers, regular teachers, administrators, psychologists, speech-language pathologists, audiologists, physical education teachers, therapeutic recreation therapists, occupational therapists, medical personnel, parents, volunteers, hearing officers, and surrogate parents);
- describe the content and nature of training for each area in which training is needed;
- describe how the training will be provided in terms of (a) geographical scope (e.g., statewide, regional, or local) and (b) staff training sources (e.g., college and university staffs, SEA and LEA personnel, and non-agency personnel);
- specify the funding sources to be used;
- specify the time frame for providing the training; and
- specify procedures for evaluating the extent to which program objectives are met.

Personnel Development Plan (§ 121a.383)

The state's personnel development plan must:

- describe the results of the needs assessment with respect to needed areas of training (e.g., IEPs, nondiscriminatory testing, Least Restrictive Environment, procedural safeguards, and surrogate parents);
- assign priorities to the needed areas of training; and
- identify the target populations for personnel development, including:
  - general education instructional personnel
  - special education instructional personnel
  - administrative personnel
  - support personnel
  - other personnel (e.g., paraprofessionals, parents, surrogate parents, and volunteers)

Dissemination (§ 121a.384)

Each annual program plan must include a description of the state's procedures for acquiring, reviewing, and disseminating to general and special education instructional and support personnel, administrators, and other interested agencies and organizations (including parent, handicapped, and other advocacy organizations) significant information and promising practices derived from educational research, demonstrations, and other projects.

Dissemination includes:

- making those personnel, administrators, agencies, and organizations aware of the information and practices;
- carrying out training leading to the development of innovative programs and practices targeted on identified local needs; and
- using instructional materials and other media for personnel development and instructional programming.

Adoption of Educational Practices (§ 121a.385)

The state annually must:

- adhere to a statewide system for adopting, where appropriate, promising educational practices and materials proven effective through research and demonstration;

- conduct a thorough reassessment of educational practices used in the state; and
- identify state, local, and regional resources (human and material) which will assist in meeting the state's personnel-preparation needs.

Evaluation and Monitoring of the System of Personnel Development (§ 121a.386)

The state annually must:

- ensure procedures for evaluating the overall effectiveness of the system of personnel development and the administrative procedures, and
- undertake monitoring activities to ensure the implementation of the system of personnel development.

Technical Assistance to Local Educational Agencies (§ 121a.387)

The state must provide technical assistance to LEAs in their implementation of the personnel-development system.

D. Private Schools

NOTE: Subpart D covers provisions governing the state's financial and administrative responsibilities related to:

1. handicapped children placed in or referred to private schools by public agencies, and
2. handicapped children whose parents choose to educate them in private schools even if a Free Appropriate Public Education is made available by the state.

Handicapped Children Placed in or Referred to Private Schools by Public Agencies

Responsibility of States (§ 121a.401)

(§ 121a.402)

Each state must ensure that a handicapped child placed in or referred to a private school by a public agency:

- is provided special education and related services in accordance with the child's IEP, at no cost to the parents; and
- has all rights of a handicapped child who is served directly by a public agency in a public school or institution.

To ensure the implementation of a child's IEP and the protection of his/her rights, the state must:

- monitor compliance through on-site visits, parent questionnaires, and written reports;
- disseminate copies of applicable state standards to each private school; and
- provide an opportunity for private schools to participate in the development of state standards which apply to them.

Handicapped Children Placed in Private Schools by Parents

Placement of Children in Private Schools by Parents (§ 121a.403)

If the state makes a Free Appropriate Public Education available and parents choose to place their child in a private school, the public agency is not required to pay for that education. However, the state is still required to make special education and related services available.

Responsibility of State (§ 121a.451)

The state must ensure that provisions are made for the participation of private school handicapped children in the education programs assisted by or carried out with Part B funds by making special education and related services available.

LEA Responsibility (§ 121a.452)

Each LEA must provide special education and related services to private school handicapped children residing in the jurisdiction of the LEA.

Determination of Needs, Number of Children, and Type of Services (§ 121a.453)	The needs of private school handicapped children, the number who will participate, and the types of services provided to them by the LEA must be determined after consultation with knowledgeable professionals.
Service Arrangements (§ 121a.454)	Services to private school handicapped children may be provided through such arrangements as: • dual enrollment • educational radio and TV • mobile educational service and equipment
Differences in Services (§ 121a.455)	The LEA may provide services to private school handicapped children which are different from services provided to public school handicapped children if: • the differences are necessary to meet the special needs of the private school children; and • the services are comparable in quality, scope, and opportunity for participation to those provided to public school children with equal needs.
Personnel (§ 121a.456)	Public school personnel may be provided in other than public school facilities only to the extent necessary to provide required services not normally provided by the private school. Each state and LEA providing services to private school handicapped children must maintain continuing administrative control and direction over these services. Services provided in private schools with P.L. 94-142 funds may not include: • payment of salaries to teachers or other employees of private schools except for services performed outside their regular hours and under public supervision and control, or • payment for construction of private school facilities.
Equipment (§ 121a.459)	Equipment purchased with P.L. 94-142 funds may be placed on private school premises for a limited time, but the public agency must retain title and administrative control over it. The public agency must keep records of and accounts for the equipment and ensure that the equipment is used solely for the purposes of the program.
Prohibition of Segregation of Public and Private School Children in Public Facility (§ 121a.458)	Programs carried out in public facilities involving participation of both public and private school handicapped children may not include classes that are separated on the basis of school enrollment or religious affiliations of the children.
E. Procedural Safeguards	NOTE: Subpart E sets forth procedural safeguards including: 1. due-process procedures for parents and children relating to the identification, evaluation, and placement of a handicapped child; 2. protection in procedures used to evaluate the handicapped child; 3. procedures to ensure placement of handicapped children in the Least Restrictive Environment; 4. confidentiality of Personally Identifiable Information collected, maintained, or used by agencies; and

5. procedures of the U. S. Education Department for notifying the state of the following action:
   - disapproval of a state's annual program plan,
   - withholding payment from a state, and
   - waiving requirements regarding supplementary and supplanting Part B funds.

For the purpose of this document, the provisions related to the U. S. Education Department procedures are not covered.

Due-Process Procedures for Parents and Children

General Responsibility of Public Agencies (§ 121a.501)

Each state must ensure that each public agency establishes and implements due-process procedures for parents and children that comply with these regulations.

Parents' Right to Examine All Education Records (§ 121a.502)

Parents of a handicapped child must be permitted to inspect and review all education records with respect to the identification, evaluation, and educational placement of their child and to the provision of a Free Appropriate Public Education.

Parents' Right to Obtain an Independent Educational Evaluation (§ 121a.503)

If parents of a handicapped child disagree with an evaluation of the public agency, they have the right to obtain an independent education evaluation at public expense.

If the parents obtain an independent evaluation at their own expense, the results of the evaluation:

- must be considered in any decision regarding the Free Appropriate Public Education of the child, and
- may be presented as evidence at a due-process hearing.

Hearing Officer's Request for an Independent Evaluation (§ 121a.504(d))

If a hearing officer requests an independent evaluation as part of a hearing, the cost must be at public expense.

Prior Notice to Parents (§ 121a.504(a))

Parents of a handicapped child must be notified in writing "a reasonable time" before the public agency:

- proposes to initiate or change the identification, evaluation, or placement of the child, or provision of a Free Appropriate Public Education to that child; or
- refuses to initiate or change the identification, evaluation, or placement of the child, or provision of a Free Appropriate Public Education to that child.

Content of Notice (§ 121a.505)

The notice must include:

- full explanation of all procedural safeguards available to the parents;
- a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;
- a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal; and
- a description of any other factors relevant to the agency's proposal or refusal.

The notice must be:

- written in language understandable to the general public; and
- provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

If the native language or other mode of communication of the parent is not a written language, the state or LEA must take steps to ensure that:

- the notice is translated orally, or by other means to the parent in his/her native language or other mode of communication;
- the parent understands the content of the notice; and
- there is written evidence that these requirements have been met.

Parental Consent (§ 121a. 504(b))

Parental consent must be obtained before:

- conducting a preplacement evaluation, and
- initial placement of a handicapped child in a program providing special education and related services.

Once the child is placed, any changes in his/her special education program are subject only to requirements covering prior notice and not to parental consent.

Procedures Where Parent Refuses Consent (§ 121a.504(c))

If a parent refuses consent, the public agency must:

- follow procedures of state law covering parental consent before evaluation (e.g., issue court order authorizing evaluation); or
- in the absence of an existing state law, follow due-process procedures described in these Regulations.

Impartial Due Process Hearing (§ 121a.506)

A parent or a public educational agency may initiate a hearing on matters regarding a public agency's proposed plan to initiate, change, or refuse the identification, evaluation, or educational placement, or provision of a Free Appropriate Public Education.

At the parent's request or when a hearing is initiated, the public agency must inform the parent of any free or low-cost legal services or other relevant services available in the area.

Impartial Hearing Officer (§ 121a.507)

A formal due-process hearing must be conducted by an impartial hearing officer.

Rights at a Hearing (§ 121a.508)

Any party to a hearing has the right to:

- be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;
- present evidence and confront, cross-examine, and compel the attendance of witnesses;
- prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 days before the hearing;
- obtain a written or electronic verbatim record of the hearing; and
- obtain written findings of fact and decisions. (The public agency must transmit those findings and decisions, after deleting any Personally Identifiable Information, to the state advisory panel.)

Parents involved in hearings must be given the right to:

- have their child present, and
- have the hearing open to the public.

Hearing Decision and Right to Appeal (§ 121a.509)

A decision made by a hearing officer is final unless it is appealed by a party to the hearing.

Only a person who is a party to a hearing conducted by a public agency has the right to an administrative appe conducted by the state.

Administrative Appeal Procedures—Impartial Review (§ 121a.510)

If there is an appeal, the state must conduct an impartial review of the hearing.

Impartial Review Decision and Right to Appeal (§ 121a.510(c))

The reviewing officer conducting the impartial review must:

- examine the entire hearing record;
- ensure that the procedures at the hearing were consistent with the requirements of due process;
- seek additional evidence if necessary;
- afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewi official;
- make an independent decision on completion of the review; and
- give a copy of the written findings and decision to the parties.

The decision made by the reviewing officer is final unless a person brings civil-court action.

Civil-Court Action (§ 121a.511)

A civil-court action may be brought by any person aggrieved by the hearing officer's decision who does not ha the right to an administrative appeal or by any party aggrieved by the decision of a reviewing officer.

Time lines and Convenience of Hearings and Reviews (§ 121a.512)

The public agency must ensure that not later than 45 days after the receipt of a request for a hearing:

- a final decision is reached in the hearing, and
- a copy of the decision is mailed to each of the parties.

The state must ensure that not later than 30 days after the receipt of a request for an impartial review:

- a final decision is reached in the review, and
- a copy of the decision is mailed to each of the parties.

A hearing or reviewing officer may grant specific time extensions beyond the periods specified above at t request of either party.

Each hearing and each review must be conducted at a time and place reasonably convenient to the parents a child.

Child's Placement Status During any Administrative or Judicial Proceedings (§ 121a.513)

The child must remain in his/her present educational placement pending any administrative or judicial proce ing unless:

- the public agency and the parents agree otherwise; or
- the complaint involves an application for initial admission to public school; in this case, the child, with t consent of the parents, must be placed in the public school program until the completion of all the proce ings.

NOTE: While the placement may not be changed, this does not preclude the agency from using its normal p cedures for dealing with children who are endangering themselves or others.

Surrogate Parents (§ 121a.514)

Each public agency must ensure that the rights of a child are protected when:

- no "parent" can be identified;
- the whereabouts of a parent cannot be discovered after reasonable effort; or
- the child is a ward of the state.

If one of the above conditions exists, the public agency must assign an individual to act as a surrogate for the parents.

Responsibilities of a Surrogate Parent (§ 121a.514(e))

The surrogate parent may represent the child in all matters relating to:

- the identification, evaluation, and educational placement of the child; and
- the provisions of a Free Appropriate Public Education.

Protection in Evaluation Procedures

NOTE: Each state must ensure that each public agency establishes and executes procedures that meet the requirements of this Section.

Non-discriminatory Testing and Evaluation Materials and Procedures (§ 121a.530(b))

Testing and evaluation materials and procedures used for the evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory.

Preplacement Evaluation (§ 121a.531)

Before a handicapped child is placed initially in a special education program, a full and individual evaluation of the child's educational needs must be conducted.

Evaluation Procedures (§ 121a.532)

States and school districts must ensure, at a minimum, that the evaluation procedures listed below are adhered to:

- Tests and other evaluation materials shall be:
  - provided and administered in the child's native language or other mode of communication unless it is clearly not feasible to do so;
  - validated for the specific purpose for which they are used; and
  - administered by trained personnel in conformity with the instructions provided by their producer.
- Tests and other evaluation materials shall include those tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient.
- Tests shall be selected and administered to ensure that the test results accurately reflect whatever factors the test purports to measure (e.g., the child's aptitude or achievement level) rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).
- No single procedure shall be used as the sole criterion for determining an appropriate educational program for a child.
- The evaluation shall be made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.
- The child shall be assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

Placement Procedures (§ 121a.533)

In interpreting evaluation data and in making placement decisions, each public agency must:

- draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
- ensure that information obtained from all of these sources is documented and carefully considered;
- ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- ensure that the placement decision is made in conformity with the Least Restrictive Environment requirements.

If a determination is made that a child is handicapped and needs special education and related services, an IEP must be developed.

Reevaluation (§ 121a.534)

Each state and LEA must ensure that:

- each handicapped child's IEP is reviewed at least once annually, and
- a full evaluation of the child is conducted every 3 years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

Least Restrictive Environment

Least Restrictive Environment (§ 121a.550)

Each public agency must ensure that:

- to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped; and
- special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Continuum of Alternative Placements Available (§ 121a.551)

Each public agency must ensure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.

The continuum of alternative placements includes (by order from least restrictive to most restrictive):

- instruction in regular classes
- special classes
- special schools
- home instruction
- instruction in hospitals and institutions

Provisions for supplementary service (e.g., resource-room or itinerant instruction) must also be made available in conjunction with regular class placement.

Least Restrictive Placements (§ 121a.552)

Each public agency must ensure that:

- each handicapped child's educational placement is determined at least annually, is based on his/her IEP, and is as close as possible to the child's home;
- various alternative placements are available to the extent necessary to implement the IEP;
- each handicapped child is educated in the school which he/she would attend if not handicapped unless the child's IEP requires other arrangements; and
- in selecting the Least Restrictive Environment, consideration is given to any potential harmful effect on the child or on the quality of services he/she needs.

Nonacademic and Extracurricular Settings (§ 121a.553)

Each public agency must ensure that each handicapped child participates with nonhandicapped children in nonacademic and extracurricular services and activities (e.g., meals, recess periods, recreational activities, clubs, athletics) to the maximum extent appropriate to the needs of that child.

Children in Public or Private Institutions (§ 121a.554)

Each public agency must make arrangements with public and private institutions to ensure that, to the maximum extent appropriate, handicapped children are educated with nonhandicapped chidren and that the Least Restrictive Environment is selected for each handicapped child.

Technical Assistance and Training Activities (§ 121a.555)

Each state must carry out activities to ensure that teachers and administrators in all public agencies:

- are fully informed about their responsibilities for implementing the requirements related to Least Restrictive Environments, and
- are provided with technical assistance and training necessary to assist them in their effort.

Confidentiality of Records

Notice to Parents Regarding Records (§ 121a.560(a))

The state must give adequate notice to inform parents fully about the state's policies and procedures to identify, locate, and evaluate all children who are handicapped, including:

- a description of the extent to which the notice is given in the native languages of the various population groups in the state;
- a description of the children on whom Personally Identifiable Information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- a summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of Personally Identifiable Information; and
- a description of all the rights of parents and children regarding this information (including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations).

Publication of Notice (§ 121a.560(b))

Before any major identification, location, or evaluation activity, notice must be published or announced in newspapers or other media, with circulation adequate to inform parents throughout the state.

Access to Records–Right of Parents (§ 121a.562)

Each agency that collects, maintains, or uses education records must permit parents to inspect and review records relating to their child.

The agency must comply with a parent's request without unnecessary delay and before any IEP meeting or hearing, but in no case more than 45 days after the request.

A parent's right to inspect and review education records includes:

- the right to be given explanations and interpretations of the records;
- the right to request copies of the records; and
- the right to have a representative of the parent inspect and review the records.

An agency may presume that the parent has authority to inspect and review records relating to his/her child unless it has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

Agency's Record of Access (§121a.563)

Each agency must keep a record of all parties obtaining access to education records (except parents and authorized employees of that agency), including the name of the party, date of access, and purpose.

Records on More than One Child (§ 121a.564)	If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
List of Types and Locations of Education Records (§ 121a.565)	Each agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.
Fees (§ 121a.566)	An agency may charge parents a fee for copies of records if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. An agency may not charge a fee to search for or to retrieve information.
Amendment of Records at Parent's Request (§ 121a.567)	A parent who believes that information contained in the child's records is inaccurate or misleading or violates the child's privacy rights has the right to request that the information be amended. The agency has the right to decide whether to amend the information within a reasonable time after receipt of the request.
Opportunity for a Records Hearing (§ 121a.568)	If the agency refuses the parents' request to amend the information, it must inform the parents of the refusal, advise them of their right to a records hearing, and, if requested, provide an opportunity for a hearing.
Result of Records Hearing (§ 121a.569)	If, as a result of the hearing, the agency decides that the information should be amended, it must do so and inform the parents of its action in writing. If the agency decides that the information should not be amended, it must inform parents of their right to place a statement in the record regarding reasons for disagreeing with the agency.
Hearing Procedures (§ 121a.570)	A records hearing must be conducted according to procedures under the Family Education Rights and Privacy Act of 1974.
Parental Consent and Personally Identifiable Information (§ 121a.571)	Parental consent must be obtained before Personally Identifiable Information is: • disclosed to anyone (unless authorized to do so under the Family Education Rights and Privacy Act), or • used for any purpose other than meeting the requirement of these Regulations. The state must include policies and procedures in its annual program plan which are to be used if a parent refuses to provide consent.
Safeguards to Protect the Confidentiality of Personally Identifiable Information (§ 121a.572)	Each participating agency must protect the confidentiality of Personally Identifiable Information at collection, storage, disclosure, and destruction stages. One official at each participating agency must assume responsibility for ensuring the confidentiality of Personally Identifiable Information. All persons collecting or using Personally Identifiable Information must receive training or instruction regarding the state's policies and procedures to ensure confidentiality of Personally Identifiable Information. Each participating agency must maintain a current list of the names and positions of employees within the agency who may have access to Personally Identifiable Information.

The public agency must inform parents when Personally Identifiable Information is no longer needed to provide educational services to the child.

Destruction of Information (§ 121a.573)

If the parents request, all Personally Identifiable Information no longer needed must be destroyed except for the student's name, address, and telephone number, grades, attendance records, classes attended, grade level completed, and year completed; this latter data may be maintained permanently.

Children's Rights (§ 121a.574)

The state must include policies and procedures in its annual program plan regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

NOTE: Under the Family Education Rights and Privacy Act of 1974 (45 CFR 99. 4[a]), the rights of parents regarding records are transferred to the student at age 18.

Enforcement (§ 121a.575)

The SEA shall describe in its annual program plan the policies and procedures (including sanctions) which the state uses to ensure that its policies and procedures are followed and that the requirements and Regulations of P.L. 94-142 are met.

Office of Education Procedures: Opportunity for a Hearing (§ 121a.580)

The Secretary of Education shall give an SEA reasonable notice and an opportunity for a hearing before taking any of the following actions:

- disapproving of a state's annual program plan;
- withholding payments for a state; and
- waiving the requirement regarding supplementing and supplanting with funds provided under P.L. 94-142.

Hearing Panel (§ 121a.581)

The Secretary of Education shall appoint a hearing panel consisting of not less than three persons to conduct any hearing.

Hearing Procedures (§ 121a.582)

If the hearing panel determines that oral testimony would not help resolve the disputed matters, the panel shall give each party an opportunity for presenting the case:

- in writing;
- in an informal conference before the hearing panel; and
- after giving notice of the issues to be considered and affording opportunity to be represented by counsel.

If the hearing panel determines that oral testimony would help resolve the disputed matters, the panel shall give each party, in addition to the requirements above of this section:

- an opportunity to obtain a record of the proceedings;
- an opportunity to present witnesses on the party's behalf; and
- an opportunity to cross-examine witnesses either orally or with written questions.

Initial Decision; Final Decision (§ 121a.583)

The hearing panel shall prepare an initial written decision that includes findings of fact and the conclusions based on those facts.

The hearing panel shall mail a copy of the initial decision to each party and to the Secretary of Education, with a notice that each party has an opportunity to submit written comments regarding the decision to the Secretary of Education within a specified, reasonable time.

The initial decision of the hearing panel is the final decision of the Secretary of Education unless, within 25 days after the time for receipt of written comments, the Secretary of Education informs the panel in writing that the decision is being reviewed.

Review by the Secretary of Education is based on the decision, the written record, if any, of the hearing panel's proceedings, and written comments or oral arguments by the parties.

No decision under this Section becomes final until notification of it has been served on the SEA or its attorney.

Waiver of Requirement Regarding Supplementing and Supplanting (§ 121a.589)

SEAs and LEAs must ensure that federal funds provided under P.L. 94-142 are used to supplement the level of state and local funds expended for the education of handicapped children, and in no case to supplant those state and local funds. Beginning with funds appropriated for fiscal year 1979 and for each following fiscal year, the nonsupplanting requirement only applies to funds allocated to LEAs.

If a state provides clear and convincing evidence that all handicapped children have available a Free Appropriate Public Education, the Secretary of Education may waive in part this requirement if the Secretary of Education concurs with the evidence provided by the state.

If a state wishes to request a waiver, it must inform the Secretary of Education in writing. The Secretary of Education then provides the state with a finance and membership report form which provides the basis for the request.

In its request for a waiver, the state shall include the results of a special study it has made to obtain evidence that a Free Appropriate Public Education is available to all handicapped children. The special study must include statements by a representative sample of organizations dealing with handicapped children, and by parents and teachers of handicapped children, relating to the following areas:

- the adequacy and comprehensiveness of the state's system for locating, identifying, and evaluating handicapped children;
- the cost to parents, if any, for education for children enrolled in public and private day schools, and in public and private residential schools and institutions; and
- the adequacy of the state's due-process procedures.

In its request for a waiver, the state shall include finance data relating to the availability of a Free Appropriate Public Education for all handicapped children, including:

- the total current expenditures for regular education programs and special education programs by function and by source of funds for the previous school year; and
- the full-time equivalent membership of students enrolled in regular programs and in special programs in the previous school year.

The Secretary of Education considers the information provided by the state, along with any additional information he/she requests or obtains through on-site reviews of the state's education programs and records, to determine if all children have available a Free Appropriate Public Education, and if so, the extent of the waiver. The state may request a hearing with regard to any final action by the Secretary of Education.

Withholding Payments (§ 121a.590)

The Secretary of Education shall, after notifying the SEA, withhold further payments to the state under P.L. 94-142; he/she may also withhold further payments to the state under other federal programs within his/her jurisdiction, to the extent that funds under those programs are available for the education of handicapped children.

If the Secretary of Education withholds payments, he/she may determine:

- that withholding is limited to programs or projects under the annual program plan, or portions of it, affected by the state's failure to qualify for a waiver; or
- that the SEA must not make further payments to specified LEAs affected by the failure.

Reinstating Payments (§ 121a.591)

Until the Secretary of Education is satisfied that there is no longer any failure to comply with the provisions of P.L. 94-142:

- no further payments shall be made to the state under P.L. 94-142 or under other specified federal programs; or
- payments by the SEA under P.L. 94-142 shall be limited to LEAs whose actions did not cause or were not involved in the failure.

Public Notice by State and Local Educational Agencies (§ 121a.592)

Any SEA and LEA receiving a notice under § 121a.590 shall, by means of public notice, take any necessary measures to inform the public within the agency's jurisdiction that the action is pending.

Judicial Review of Commissioner's Final Action on Annual Program Plan (§ 121a.593)*

If a state is dissatisfied with the Secretary of Education's final action with respect to its submitted annual program plan, it may, within 60 days after notice of the action, file a petition for review of that action with the appropriate U.S. Court of Appeals.

F. State Administration

NOTE: Subpart F covers provisions governing:

1. the responsibility of the state for all educational programs;
2. the state's use of P.L. 94-142 funds for state administration; and
3. the establishment and functions of a state advisory panel on the education of handicapped children.

State Educational Agency Responsibilities: Responsibility for All Educational Programs (§ 121a.600)

The SEA is responsible for ensuring that:

- the requirements of the Law are carried out; and
- each educational program for handicapped children administered within the state, including each program administered by any other public agency, is under the general supervision of the persons responsible for educational programs for handicapped children in the SEA, and meets educational standards of the SEA.

Monitoring and Evaluation Activities (§ 121a.601)

Each SEA shall undertake monitoring and evaluation activities to ensure compliance of all public agencies within the state.

Each state shall develop procedures (including specific time lines) for monitoring and evaluating public agencies involved in the education of handicapped children. The procedures must include:

- collection of data and reports;
- conduct of on-site visits;
- audit of use of federal funds; and
- comparison of a sampling of IEPs with the programs actually provided.

*The term "Secretary of Education" replaces "Commissioner" in right column owing to the establishment of the U. S. Education Department.

Adoption of Complaint Procedures (§ 121a.602)

Each SEA shall adopt effective procedures for reviewing, investigating, and acting on any allegations of substance (made by public agencies, private individuals, or organizations) of actions taken by any public agency that are contrary to the requirements of P.L. 94-142.

In carrying out these requirements, the SEA shall:

- designate specific individuals within the agency who are responsible for implementing the requirements;
- provide for negotiations, technical assistance activities, and other remedial action to achieve compliance; and
- provide for the use of sanctions.

Use of Funds: Federal Funds for State Administration (§ 121a.620)

A state may use 5% of the total state allotment in any fiscal year or $200,000, whichever is greater, for administrative costs related to carrying out P.L. 94-142.

Allowable Costs (§ 121a.621)

The SEA may use funds for administrative costs, including:

- administration of the annual program plan and planning at the state level, including planning, or assisting in the planning, of programs or projects for the education of handicapped children;
- approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of handicapped children;
- relevant technical assistance to LEAs;
- leadership services for program supervision and management of special education activities; and
- other state leadership activities and consultative services.

Establishment of a State Advisory Panel (§121a.650)

Each state must establish a state advisory panel on the education of handicapped children.

The panel must be composed of persons involved in or concerned with the education of handicapped children, and must include at least one representative from each of the following groups:

- handicapped individuals
- teachers of handicapped children
- special education program administrators
- parents of handicapped children
- state and local educational officials

Advisory Panel Function (§121a.652)

The state advisory panel must:

- advise the SEA of unmet educational needs of handicapped children within the state;
- comment publicly on the state annual program plan and related rules and regulations and the procedure for distribution of Part B funds; and
- assist the state in developing and reporting information and evaluations to be used by the Secretary of Education in evaluating the effectiveness of state efforts and the impact of programs.

Advisory Panel Procedure (§121a.653)

The panel must meet as often as necessary to conduct its business.

By July 1 of each year, the panel must submit and make public an annual report of its activities and its suggestions to the state.

Official minutes must be kept on all meetings and made available to the public.

Interpreters and other necessary services must be provided at panel meetings. (The state may pay for these services.)

The panel must serve without pay, but the state must reimburse panel members for reasonable and necessary expenses for attending meetings and performing duties (e.g., travel and lodging expenses).

G. Allocation of Funds and Annual Report of Children Served

NOTE: Subpart G covers provisions governing:

1. the allocation of P.L. 94-142 funds to the state in accordance with the state entitlement formula (§121a.700a.710); and
2. the state's annual report of the number of handicapped children ages 3 through 21 served for allocation purposes (§121a.750-121a.754).

State Entitlement; Formula (§121a.701)

The maximum grant to which a state is entitled under P.L. 94-142 in any fiscal year is equal to the number of handicapped children ages 3 through 21 in the state who are receiving special education and related services, multiplied by the applicable percentage of the average per-pupil expenditure in public elementary and secondary schools in the United States.

The applicable percentage of the average per-pupil expenditure in public elementary and secondary schools in the United States for each fiscal year is:

- 1978–5%
- 1979–10%
- 1980–20%
- 1981–30%
- 1982 (and for each fiscal year after 1982)–40%

For the purposes of this section, the average per-pupil expenditure in public elementary and secondary schools, means the aggregate expenditures during the second fiscal year preceding the fiscal year for which the computation is made (if satisfactory data for that year are not available, then during the most recent fiscal year for which satisfactory data are available) of all LEAs (which, for the purpose of this section, means the 50 states and the District of Columbia)–plus any direct expenditures by the state for LEA operation (without regard to the source of funds for either expenditure)–divided by the aggregate number of children in average daily school attendance to whom the LEAs provided free public education during that preceding year.

Limitations and Exclusions (§121a.702)

In determining the amount of a grant, the Secretary of Education may not count:

- handicapped children in a state greater than 12% of the number of all children ages 5 through 17 in the state, and
- handicapped children who are counted under the Elementary and Secondary Education Act of 1965.

Within-State Distribution: Fiscal Year 1979 and After (§121a.706)

Of the funds received by any state for fiscal year 1979 and each fiscal year thereafter:

- 25% may be used by the state, and
- 75% shall be distributed to the LEAs in accordance with P.L. 94–142.

Local Educational Agency Entitlements; Formula (§121a.707)

From the total funds available to all LEAs, each LEA is entitled to an amount which bears the same ratio to the total as the number of handicapped children ages 3 through 21 in that agency (receiving special education and related services) bears to the aggregate number of handicapped children ages 3 through 21 receiving special education and related services in all LEAs that apply to the SEA for funds under P.L. 94-142.

Reallocation of Local Educational Agency Funds (§121a.708)

If an SEA determines that an LEA is adequately providing a Free Appropriate Public Education to all handicapped children in the LEA's service area with state and local funds otherwise available to the LEA, the SEA may reallocate that LEA's funds to other local agencies that are not adequately providing special education and related services.

Payments to Secretary of Interior (§121a.709)

The Secretary of Education is authorized to make payments to the Secretary of the Interior according to the need of handicapped Indian children on reservations serviced by elementary and secondary schools operated by the Department of Interior.

The amount of those payments for any fiscal year shall not exceed 1% of the aggregate amounts available to all states for that fiscal year.

Entitlements to Jurisdictions (§121a.710)

The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Each jurisdiction is entitled to an amount not in excess of 1% of the aggregate of the amounts available to all states for that fiscal year. Funds appropriated for those jurisdictions shall be allocated proportionately among them on the basis of the number of children ages 3 through 21 in each jurisdiction. However, no jurisdiction shall receive less than $150,000, and other allocations shall be ratably reduced if necessary to ensure that each jurisdiction receives at least that amount.

The amount expended for administration by each jurisdiction shall not exceed 5% of the amount allotted to the jurisdiction for any fiscal year, or $35,000, whichever is greater.

Annual Report of Children Served–Report Requirement (§121a.750)

The SEA shall report to the Secretary of Education no later than April 1 of each year the number of handicapped children ages 3 through 21 residing in the state who are receiving special education and related services.

Information Required In the Report (§121a.751)

In its report, the SEA shall include a table showing:

- the number of handicapped children receiving special education and related services on October 1 and on February 1 of that school year, and the average of the numbers for those two dates (amended 1978 to a December 1 count only);
- the number of those handicapped children within each disability category, in accordance with the definition of "handicapped children"; and
- the number of those handicapped children within the 3 through 5, 6 through 17, and 18 through 21 age groups.

A child's age on the date of the count (October 1 or February 1) shall be the age recorded.

The SEA may not report a child under more than one disability category.

If a handicapped child has more than one disability, the SEA shall:

- report a child who is both deaf and blind as "deaf-blind," and
- report a child who has more than one disability (other than a deaf-blind child) as "multihandicapped."

Annual Report of Children Served–Certification (§121a.752)

The SEA shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of handicapped children receiving special education and related services on the dates in question.

Criteria for Counting Children (§121a.753)

The SEA report may include handicapped children who are enrolled in a school or program that is operated or supported by a public agency, and that either:

- provides them with both special education and related services, or
- provides them only with special education if they do not need related services.

The state report may not include handicapped children who:

- are not enrolled in a school or program operated or supported by a public agency;
- are not provided special education that meets state standards;
- are not provided with a related service needed to assist them in benefiting from special education;
- are counted by a state agency under the Elementary and Secondary Education Act of 1965; or
- are receiving special education funded solely by the federal government.

Other Responsibilities of the State Educational Agency (§121a.754)

The SEA shall:

- establish procedures to be used by LEAs and other educational institutions in counting the number of handicapped children receiving special education and related services;
- set dates by which those agencies and institutions must report to the SEA;
- obtain certification from each agency and institution that an unduplicated and accurate count has been made;
- total the data from the count obtained from each agency and institution, and prepare the required reports; and
- ensure that documentation is maintained which enables the state and the Secretary of Education to audit the accuracy of the count.

NOTE: Other Things to Know about Regulations Implementing P.L. 94-142

1. Relationship between Regulations Implementing P.L. 94-142 and Regulations Under Section 504 of the Rehabilitation Act of 1973

   The Regulations under Section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84; published at 42 FR 22675; May 4, 1977) deal with nondiscrimination on the basis of handicap, and basically require that recipients of federal funds provide equal opportunities to handicapped persons. Subpart D of the Section 504 Regulations (Preschool, Elementary, and Secondary Education) contains requirements very similar to those in the Regulations implementing P.L. 94-142.

   However, Section 504 adds a new dimension to the federal requirements and enforcement regarding education for handicapped children. If a state or LEA does not apply for federal funds under P.L. 94-142, it need not meet the Act's requirements (such as submitting annual program plans or developing IEPs). However, since Section 504 prohibits discrimination against the handicapped, any state providing education to all normal children but not to all handicapped children would be *ipso facto* violating Section 504. As a result, the Education Department's Office for Civil Rights, the enforcement agency, could cut off all federal funds to the state. Therefore, even if a state decider not to take funds under P.L. 94-142, it still faces much the same requirements under Section 504.

2. Availability of Incentive Grants to States for Preschool Handicapped Children

Federal assistance to states is available under P.L. 94-142 for providing special education and related services to handicapped children ages 3 through 5. A state is eligible to receive a grant if its annual program plan has been approved by the Secretary of Education and if special education and related services are being provided to any handicapped child ages 3 through 5. Each handicapped child in this age group counted as being served will generate a $300 entitlement.

3. Sanctions Imposed for Noncompliance with P.L. 94-142

Funds granted to a state under P.L. 94-142 will be cut off by the Secretary of Education if the SEA is in substantial noncompliance with any major requirement. In such an instance, the Secretary of Education must also cut off funds for programs specially designed for handicapped children under:

- Part A, Title I, Elementary and Secondary Education Act
- Title III, Elementary and Secondary Education Act
- The Vocational Education Act

The Secretary of Education may also order the state to cut off flow-through funds to a given LEA if it is found to be in noncompliance.

APPENDIX B

SELECTED ANNOTATED REFERENCES PERTINENT TO ADMINISTRATORS AND P.L. 94-142*

Bernstein, C. D., Kirst, M. W., Hartman, W. T., & Marshall, R. S. Financing educational services for the handicapped. Published 1976 by Council for Exceptional Children, 1920 Association Drive, Reston, Va. 22091; (703) 620-3660.

This booklet describes elements for evaluating or reforming a state's special education finance system. Crucial factors discussed are instructional programming, various methods of cost determination such as expert opinions, and level of funding, funding schemes, and the effect of "mainstreaming" on funding patterns.

Bureau of Education for the Handicapped (Ed.). Due process: Developing criteria for the evaluation of due process procedural safeguards provisions. Published 1979 by Research for Better Schools (Attention: Special Projects Division), 444 North Third Street, Philadelphia, Pa. 19123; (215) 574-9300.

This book presents three authors' views on evaluating the due-process procedure. It discusses due-process safeguards from the parents' point of view and presents a sample due-process hearing of a mildly handicapped child. Also explained are the levels of hearings from the due-process hearing to civil action. It presents a list of criteria to evaluate compliance with the notice and consent requirements.

Bureau of Education for the Handicapped (Ed.). IEP: Developing criteria for the evaluation of individualized education program provisions. Published 1979 by Research for Better Schools (Attention: Special Projects Division), 444 North Third Street, Philadelphia, Pa. 19123; (215) 574-9300.

This compilation of articles discusses the IEP from two orientations: the administrator's and the child's. It presents a sequence of steps in the IEP process, and provides a model for self-audit that includes marker events and a scoring procedure. Educational programs and their quality, philosophy, and management are examined.

Bureau of Education for the Handicapped (Ed.). LRE: Developing criteria for the evaluation of the least restrictive environment provision. Published 1979 by Research for Better Schools (Attention: Special Projects Division), 444 North Third Street, Philadelphia, Pa. 19123: (215) 574-9300.

This compilation of articles addresses the following issues regarding Least Restrictive Environment: results of a study that assessed understanding of the

*Further information related to administrators and P.L. 94-142 may be located in the ERIC collection under the descriptors "handicapped" and/or "Public Law 94-142." In addition, administrators may want to contact the ERIC Clearinghouse on the Handicapped and Gifted Children, CEC Information Center on Exceptional Children, 1920 Association Drive, Reston, Va. 22091; (703) 620-3660. ERIC/CEC is responsible for storage and retrieval of documents concerning children and youth who require special services. Finally, some of the journal articles and books here described are available for loan or reproduction at many large public or college/university libraries.

programs. The study includes a questionnaire sent to all state directors of special education to determine Least Restrictive Environment provisions at the local level, presentation of checklists for implementing Least Restrictive Environment programs for each exceptionality, development of in-service training, review of criteria researched for successful Least Restrictive Environment implementation, and discussion of the impact of Section 504 and P.L. 94-142 on the courts and the administration of schools.

Gearheart, B. R., & Wright, W. S. Organization and administration of educational programs for exceptional children. Published 1979 by Charles C. Thomas, Bannerstone House, 301-327 East Lawrence Avenue, Springfield, Ill. 62717; (217) 789-8980.

This text about administrative leadership spans the two fields of educational administration and special education. It discusses selected court cases and their impact on education and presents charts illustrating the various mandates of P.L. 94-142 and those responsible for meeting them. Also examined is the matrix involving the SEA, the cooperative educational service district, and the bureaucracy of the Department of Health, Education and Welfare (now the U. S. Education Department). Funding of special education programs is treated, and an example of a district special education program with regard to staffing and budget is given.

Goltz, D. L., & Behrmany, M. M. Getting the buck to stop here: A guide to federal resources for special needs. Published 1979 by Council for Exceptional Children, 1920 Association Drive, Reston, Va. 22091; (703) 620-3660.

This manual is designed to help individuals identify and access sources of federal funding that might not ordinarily be considered. Divided into two major sections, the manual aims to provide easy access to programs that may relate to a set of particular needs for funding in the area of education and related services for exceptional individuals. Each program description includes the federal agency involved, program title and contact information, population served, program objectives, uses and use restrictions, types of assistance, and application procedures.

Orlove, F. P. Administering education for the severely handicapped after P.L. 94-142. Phi Delta Kappan, 1978, 59 (10), 699-702. Published by Phi Delta Kappan (Attention: Director of Administrative Services), Eighth and Union Streets, Box 789, Bloomington, Ind. 47402; (812) 339-1156.

This article discusses six administrative problems: identifying, locating, and appraising the handicapped; placing them in adapted or newly developed programs; training various types of personnel through in-service programs; developing a process for individualizing educational plans; holding impartial due-process hearings; and avoiding lawsuits.

Vescera, L., Fuhrman, S., & Collins, J. Special education finance: The interaction between state and federal support systems. Published 1979 by Education Finance Center (Attention: Education Commission of the States), Suite 300, 1860 Lincoln Street, Denver, Colo. 80295; (303) 861-4917.

This booklet is written for those concerned with the fiscal aspects of implementing P.L. 94-142. Aid in four states—Connecticut, Florida, Missouri, and Oregon—is examined to determine how specific characteristics of districts are related to the amount of special education aid received under state and federal

programs. The study includes a questionnaire sent to all state directors of special education to determine their attitudes about the compatibility of aid at state and federal levels, classification procedures for eligible children, and coordination of services at the state and local levels. The analysis of the four states reveals both the degree to which the different aid systems promote fiscal equity and the extent to which the interaction between state and federal funds results in duplication. Background information related to P.L. 94-142 is presented, such as the development of programs for special education at the state level, programs of the four states studied, the history of federal funding for special education, and previous research on the financing of special education.

Administrators and Section 504 of the Vocational Rehabilitation Act

Birch, J. W., & Johnstone, B. K. Designing schools and schooling for the handicapped. Published 1975 by Charles C. Thomas, Bannerstone House, 301-327 East Lawrence Avenue, Springfield, Ill. 62717; (217) 789-8980.

This book establishes guidelines for planning and designing teaching space for children handicapped physically, socially, emotionally, or academically. It applies to both design of new space or remodeling of existing space for "mainstreamed" students or those in separate facilities. The exhaustive text considers space in terms of personnel, types of use, and appearance. The authors suggest that all designs be developed through consultation with staff, administrators, and agencies who deal in facility planning, and provide a list of those agencies.

National Association of State Directors of Special Education and Pottinger and Company Consultants. The Rehabilitation Act: An analysis of the Section 504 Regulation and its implications for state and local education agencies. Published 1977 by National Association of State Directors of Special Education, 1201 16th Street, N. W., Suite 610 E, Washington, D.C. 20036; (202) 833-4193.

An overview is presented of the Section 504 regulations of the 1973 Rehabilitation Act, with section-by-section analysis of the implications of these regulations for SEAs and LEAs in complying with Section 504.

National Learning Resource Center of Pennsylvania. Placing handicapped students in the least restrictive environment. Published 1979 by National Learning Resource Center of Pennsylvania, 443 South Gulph Road, King of Prussia, Pa. 19406; (215) 265-3706.

This booklet concentrates on the process of matching the student to the environment and analyzes the student's needs in such areas as curriculum, learning style, and social/psychological characteristics. The environmental options are assessed in terms of restrictions, and educational alternatives such as resource rooms are reviewed. A decision-making model is used to match the client and the environment.

Ohio Governor's Committee on Employment of the Handicapped. Access for all. Published 1978 by Ohio Governor's Committee on Employment, 4656 Heaton Road, Columbus, Ohio 43229; (614) 466-8474.

This handbook illustrates the problems and solutions to environmental barriers. It discusses the categories of handicaps caused by age and disability, their incidence, and the enacted legislation and regulations. Attention is given to spatial requirements, access, lighting, housing and toileting facilities, and signs and public facilities. Sections on renovation, rehabilitation, and costs vs. benefits are included.

In-service

Larrivee, B. Behavior management strategies for classroom application. Published 1978 by Research for Better Schools (Attention: Special Projects Division), 444 North Third Street, Philadelphia, Pa. 19123; (215) 574-9300.

This comprehensive in-service manual provides practical materials and suggested workshop procedures. It includes masters for handouts. The content is organized into four 2-hour training sessions: introduction to behavior management, basic intervention principles and procedures, reinforcement strategies and behavioral observation, and sample programs and intervention strategies.

Norman, M. (Ed.). Guide for trainers: A resource for workshops on developing individual education programs. Published 1977 by National Association of State Directors of Special Education, 1201 Sixteenth Street, N. W., Washington, D. C. 20036; (202) 833-4193.

This is a trainer's manual that presents a 2-day workshop to train placement committees in developing IEPs. Included are the daily agendas for the workshop, four simulation exercises on developing an IEP, and sample workshop evaluation forms. The appendix provides ordering information for the materials and directions for group-process exercises.

Research for Better Schools (Ed.). Clarification of P.L. 94-142 for the classroom teacher. Published 1978 by Research for Better Schools (Attention: Special Projects Division), 444 North Third Street, Philadelphia, Pa. 19123; (215) 574-9300.

This field-tested guide contains an explanation of the Law: its background, purpose, and major provisions; answers to questions teachers frequently ask regarding P.L. 94-142; outlines activities to help classroom teachers prepare themselves and their students for implementation of the Law; restates key regulations in understandable terms; and presents selected, annotated bibliographies on pertinent books, films, and articles.

Sage, D. B. The new special education administrative training simulator. Published 1977 by Syracuse University Press, 1011 East Water Street, Syracuse, N. Y. 13210; (315) 423-2596.

This training manual presents a simulation set in a school district having a self-contained approach for trainable mentally retarded, educable mentally retarded, and emotionally disturbed students. An outsider has been employed to fill the new position of Director of Special Education. He will supervise adherence to the mandates of P.L. 94-142, and the incumbent remains in the system as a consultant. Other roles include teaching personnel involved in grievance procedures supported by their union, and clients and parents involved in due-process hearings. Emphasis is on conflict-mediation skills needed in a situation of change.

Smith, J. (Ed.). The map, the mission and the mandate. Published 1978 by Educational Resources Center, 1834 Meetinghouse Road, Boothwyn, Pa. 19061; (215) 485-4111.

This compilation of presentations given at regional conferences includes a report on the need for in-service programming to prepare classroom teachers to teach to specific learning disabilities. Outlined are guidelines for developing an in-service project design and evaluation of the program. One chapter is devoted to the forms and details related to applying for funds for in-service programs under Section 504 and P.L. 94-142.

Bureau of Education for the Handicapped (Ed.). PEP: Developing criteria for the evaluation of protection in evaluation procedures provisions. Published 1979 by Research for Better Schools (Attention: Special Projects Division), 444 North Third Street, Philadelphia, Pa. 19123; (215) 574-9300.

This book presents extensive models and lists that emphasize protection in evaluation. All aspects of the IEP process are considered, such as personnel functions, process sequence, and decision-making steps. Consideration is given to tests in terms of racial-cultural discrimination, diagnostic value and purposes, and reliability.

Council for Exceptional Children. Special education administrative policies manual. Published 1977 by Council for Exceptional Children, 1920 Association Drive, Reston, Va. 22091; (800) 336-3728.

This notebook provides policy based on federal and state directives such as P.L. 94-142. Developed after extensive field-based research, the manual divides the issues into (a) administrative concerns and comments on the policies and (b) procedures affecting the topics. Examples include definition, identification, and evaluation of clients; placement, service delivery, and facilities for clients; and organizational, budgetary, and personnel issues.

Daniels, C. B. (Ed.). Special education market report. Published August 1978 by LINC Services, 829 Eastwind Drive, Westerville, Ohio 43081; (614) 890-8200.

This booklet discusses the economic impact of P.L. 94-142 and Section 504. It presents graphs illustrating the number of handicapped children served as well as the amount of state and incentive grants for each state. Also discussed are the 1979 federal budget request; House and Senate funding recommendations; the concerns of special educators for adequate "mainstreaming" techniques; additional instructional and testing materials; and improving the attitudes of nonhandicapped students. A compilation of federal education laws that include funding sources is given.

Fink, A., & Kosecoff, J. An evaluation primer. Published 1978 by Capitol Publications, 2430 Pennsylvania Avenue, N. W., Suite G-12, Washington, D. C. 20037; (202) 452-1600.

A large-print text and workbook presents an approach to determine and improve a program's effectiveness. Topics include formulation of evaluation questions based on the program's goals and activities; construction of evaluation designs that take into account external and internal validity; collection of information with a validated instrument; report of information; and management of the evaluation project including monitoring, budgeting, and proposing.

Gardner, J. E. Paraprofessional work with troubled children. Published 1975 by Gardner Press, distributed by John Wiley & Sons (Attention: Halsted Press Division), 605 Third Avenue, New York, N. Y. 10016; (202) 867-9800.

This book describes the extensive use of paraprofessionals in the areas of remedial reading, child therapy, parent counseling, and preventive kindergarten programs at the Chilren's Center for Educational Therapy in Venice, California, where the author is director. The majority of staff at the Children's Center are paraprofessionals, with strong supervision from professionals. The author views the role of the paraprofessional in education and psychology as ever-increasing and supports this direction. The belief in the extensive use

of paraprofessionals is the premise of the book, and the development of such programs in schools, mental health clinics, and parent organizations is emphasized. Degrees, titles, certificates, and licenses do not guarantee that people holding these qualifications are the most adequate teachers or therapists, according to the author. To illustrate the author's views, each program at the Children's Center is discussed in detail. The book is well written and personal as well as informative.

National Association of State Directors of Special Education. Functions of the placement committee in special education. Published 1976 by National Association of State Directors of Special Education, 1201 Sixteenth Street, N. W., Washington, D. C. 20036; (202) 833-4193.

This resource manual provides local school district and SEA personnel with relevant materials to function as members of the placement committee. Included are checklists to form and organize the committee's activities, planning forms to organize the evaluation of the child and to implement the IEP, and a model to monitor and evaluate the IEP.

National Association of State Directors of Special Education. A planning guide for the development and implementation of full services for all handicapped children: The Prince William model. Published 1976 by National Association of State Directors of Special Education, 1201 Sixteenth Street, N. W., Washington, D. C. 20036; (202) 833-4193.

The publication presents a model of sequential activities for the planning team. Specific suggestions are given for identification; diagnosis; placement alternatives; and development of sequential, short-term objectives for the client. The responsibilities of state and local personnel regarding the special education program are provided, as well as forms to structure the evaluation process of the program.

Reynolds, M. C., & Birch, J. W. Teaching exceptional children in all America's schools: A first course for teachers and principals. Published 1977 by Council for Exceptional Children (CEC), 1920 Association Drive, Reston, Va. 22091; (800) 336-3728.

This comprehensive and interesting book focuses on change and future trends in the organization of, and personnel involved in, the delivery of special services. All exceptionalities are discussed, including gifted students. The text covers assessment of individuals, evaluation of programs, and parent input. Also included are an exceptionally comprehensive bibliography on each exceptionality, teacher-training materials, and agencies that help the exceptional person.

"Mainstreaming"/Least Restrictive Environment

Cochrane, P. V., & Westling, D. L. The principal and mainstreaming: Ten suggestions for success. Educational Leadership, 1977, 34(7), 506-510. Published by Association for Supervision and Curriculum Development (Attention: Publications and Sales), 225 North Washington Street, Alexandria, Va. 22314; (703) 549-9110.

The article provides basic knowledge on the history of "mainstreaming" and its definition, gives 10 suggestions for avoiding problems, and suggests providing alternative placements for the child and administrator support for the teacher.

Dunn, R. S., & Cole, R. Inviting malpractice through mainstreaming. Educational Leadership, 1979, 36(5), 301-307. Published by Association for Supervision and Curriculum Development (Attention: Publications and Sales), 225 North Washington Street, Alexandria, Va. 22314; (703) 549-9110.

This article describes what the authors saw when they visited "mainstreamed" classes. Large-group instruction was being used, and the hearing-impaired children were in the rear of the room. Other problems seemed to be the result of budgetary factors (e.g., forcing "mainstreaming" without adequate preparation). The authors see future litigation based on restrictive environments.

Gage, K. H. The principal's role in implementing mainstreaming. Educational Leadership, 1979, 36(8), 575-577. Published by Association for Supervision and Curriculum Development (Attention: Publications and Sales), 225 North Washington Street, Alexandria, Va. 22314; (703) 549-9110.

The article notes six ways to make good educational programs work, and suggests providing alternative learning opportunities for all students, not just special education students. The author points out that making a special education program successful requires specific administrative techniques, and suggests that administrators avoid "instant" expertise.

Jones, R. L., Gottlieb, J., Guskin, S., & Yoshida, R. K. Evaluating mainstreaming programs: Models, caveats, considerations and guidelines. Exceptional Children, 1978, 44(8), 588-601. Published by Council for Exceptional Children (CEC), 1920 Association Drive, Reston, Va. 22091; (703) 620-3660.

This article, blending theory and practice, discusses the evaluation of the educational environment, noting positive characteristics that have been substantiated by previous research studies. The authors suggest specific standardized achievement and attitudinal tests in the evaluation of the IEP. A list of 31 items to consider when preparing and appraising evaluation reports is given.

O'Donnell, P. A., & Bradfield, R. H. Mainstreaming. Published 1976 by American Therapy Publications, 20 Commercial Boulevard, Novato, Calif. 94947; (415) 883-3314.

Eleven articles trace implications for teacher training and programming in the schools. The authors define legal terms, discuss the entrance of the legal system into the schools, and review research on children "mainstreamed" from self-contained classes. Educational placements, IQ testing, and other implications in light of P.L. 94-142 and recent court cases are examined. Credential policies and trends in teacher-training programs are considered. A consulting teacher model and examples of "mainstreaming" efforts are presented.

Trachtenberg, P. L. A response to Dunn and Cole. Educational Leadership, 1979, 36(5), 306-307. Published by Association for Supervision and Curriculum Development (Attention: Publications and Sales), 225 North Washington Street, Alexandria, Va. 22314; (703) 549-9110.

The author offers a rebuttal to the Dunn and Cole article "Inviting Malpractice Through Mainstreaming." Suggestions on avoiding litigation through training and educational coordination are proposed.

Parent/Administrator Relations

Edge, D., Strenecky, B. J., & Mour, S. I. Parenting learning-problem children: The professional educator's perspective. Published 1978 by National Center Educational Media and Materials for the Handicapped (Attention: University Press Public Sales Division), Ohio State University, 2070 Neil Avenue, Columbus, Ohio 43210; (614) 422-6930.

This volume contains edited papers presented at the University of Louisville's Third Annual Reading and Language Conference, 1977, which was attended by both parents and professionals. Manuscripts written by national authorities on parent education are included. The book presents parents and professionals working together as partners in the education of children with learning problems. The papers are divided into four areas: school-related issues (e.g., teaching reading at home, interpreting assessment results to parents, and postsecondary education of the learning disabled); management of behavioral difficulties common to many children with learning problems (e.g., importance of effective parenting, suggestions for conferences with professional educators, and home-based strategies for dealing with educational and behavioral problems); community-related issues and use of family counseling services; and a review of educational materials and programs. The publication is written for those working with the parents of children displaying learning problems.

Kroth, R. L., & Simpson, R. L. Parent conferencing as a teaching strategy. Published 1977 by Love, 6635 East Villanova Place, Denver, Colo. 80222; (303) 757-2579.

This book provides a checklist to assess the values of the interviewer and interviewee. It suggests building trust by having the parents test the child on the Peabody Picture Vocabulary test, Draw-a-Man test, and Target Behavior Q-sort. The authors discuss correlations between teacher and parent testing, the interviewing process, the skills of developing psychological readiness, dealing with emotional factors, and observation of verbal and nonverbal behavior. Also covered are how to read and understand educational data, interview format and recording, initial interview. Suggestions for evaluating the teacher in conferences are given.

Losen, S. M., & Brament, B. Parent conferences in the schools: Procedures for developing effective partnerships. Published 1978 by Allyn and Bacon, 470 Atlantic Avenue, Boston, Mass. 02210; (617) 482-9220.

The book focuses on the need for parents and schools to cooperate as equals. The authors discuss specific skill development for different types of parent conferences: initial contact, exploratory conference to gain more information, reporting test results, arranging for special placements, and reporting progress. The book attends to skill variables such as appropriate timing of exploratory questions or interpretive or humorous comments; suggests how to identify and respond to parents' resistance and defenses; and analyzes the stages in parent conferences: opening, exploratory, problem solving, and concluding. Training exercises to acquire these skills are given. Parents' rights under P.L. 94-142 and P.L. 93-380 are covered.

Schimmel, D., & Frischer, L. The rights of parents in the education of their children. Published 1977 by National Committee for Citizens in Education, Wilde Lake Village Green, Suite 410, Columbia, Md. 21044; (301) 997-9300.

This book covers all the rights that protect parents and children, including racial and sexual nondiscrimination, privacy of students' records, discipline, and due process. A chapter on special education explains the procedural safeguards that protect the rights of parents and children under P.L. 94-142. The appendix presents reports of court cases and explains how to find the reports of the recent court decisions. A policy statement from a school board on students' rights is presented.

A

Accessibility, 3-4, 9
Accountability, 55
Administrator
  activities for, 19-34
  books for, 75-82
  and Child Find program, 7
  and conflict resolution, 14, 27-29
  and delegation of responsibility, 14-15
  effects of P.L. 94-142 on, 9-18
  and IEP planning, 10-11
  and parents, 11
American Association for School Administrators (address), 17
Annual program plan, 41-49, 67-69
Appropriateness, 5, 9
Architectural and Transportation Barriers Compliance Board, 3
Audiology, 37

B

Books for reference on
  in-service training, 78
  mainstreaming/LRE, 80-81
  parent/administrator relations, 82
  P.L. 94-142, 75-77
  service delivery, 79-80
  Vocational Rehabilitation Act, 77
Bureau of Education for the Handicapped (BEH), 9

C

Child Find program, 6, 7, 17, 44, 47
Child(ren). *See* Gifted children; Handicapped child(ren); Nonhandicapped children
Children's Defense Fund (address), 11
Civil-court action, 62
Classroom teacher. *See* Teacher
Clearinghouse on the Handicapped (address), 11
Closer Look (address), 11
Collective bargaining, 55
Communication, 15, 27
Community. *See* School-community activities
Confidentiality, 44, 47, 65-67
Conflict resolution, 14, 27-29
Consolidated applications, 46, 47
Cooperation, 15
Council for Exceptional Children (address), 17
Counseling services, 37
CRR Publishing Company (address), 17

D

Data management, 29-31
Destruction of information, 40, 66-67
Direct services, 40, 56
Disability. *See* Learning disability
Discrimination. *See* Nondiscrimination
Due process, 6, 17, 60-63. *See also* Procedural safeguards

E

Early identification, 37
Educational practices, 57-58
Education for All Handicapped Children Act of 1975. *See* Public Law 94-142
Education for the Handicapped Act, Part B, 3, 17
Education programs, coordinating, 15
Education records, 40, 65-67. *See also* Personally identifiable information
Evaluation, 39, 40, 45. *See also* Evaluation/Placement procedures; Reevaluation
Evaluation/Placement procedures, 5, 50, 60, 61, 62, 63-65. *See also* Evaluation; Reevaluation
Extracurricular activities, 51, 65

F

Facilities, 43
FAPE. *See* Free Appropriate Public Education
Free Appropriate Public Education, 4, 35, 50-51. *See also* Special education
Full Education Opportunity goal, 42-43, 47-48, 50-51
Funding, 6-7, 16-17, 45, 71-72
  information sources on, 17

G

Gifted children, 18
Gifted and Talented Children Act of 1978, 18
Guidance counselor, 15

H

Handicapped child(ren), 3, 35-36
  annual report on, 72-74
  and Child Find program, 44
  Congressional findings on, 3
  due-process procedures for parents and, 60-63
  evaluation/placement of, 5, 50, 60, 61, 62, 63-65
  extracurricular activities for, 51, 65
  first and second priority, 40, 43, 53
  and FAPE, 4
  grants to pre-school, 74
  and IEP, 5-6, 9, 10, 52-54
  and LRE, 4-5
  physical education for, 51
  in private schools, 41, 55, 58-59
  services for, 4, 12, 15, 17-18, 36-38, 40, 43, 50-58, 65
  sources of information about, 23-25
Hearing aids, 50
Hearing officer, 18, 61, 62
Hearings and reviews, 49, 61-62

I

IEP. *See* Individualized Educational Program
Independent educational evaluation, 40, 60
Individualized Education Program (IEP), 5-6, 40
  accountability for success of, 55
  content of, 10, 54
  development, review, and revision of, 9-11, 14-15, 53-55
  evaluation of, 45
  regulations for, 52-55

sources of information on, 26-27
team, 9, 10, 26-32, 53-54
In-service training, 13, 14, 56-57
activities, programs, and resources for, 19-25
books about, 78
See also Personnel development
Intermediate educational unit (IU), 36, 47
Intermediate state agency (ISA), 16
Interpreter, 54

L

LEA. *See* Local educational agency
Learning disability, 18
Least Restrictive Environment (LRE), 4-5, 44, 48
determination of, 9, 12
and mainstreaming, 13
regulations for, 64-65
Local educational agency (LEA), 36
allocation of funds to, 6, 71-72
application for payments to, 45-49
and confidentiality of records, 65-67
and evaluation/placement procedures, 63-65
and first and second priority handicapped children, 52
and handicapped children in private schools, 58-59
and IEP development, 10, 14
and sanctions for noncompliance with P.L. 94-142, 74
and services to handicapped children, 15, 56
See also School district

M

Mainstream, Inc. (address), 13
Mainstreaming, 13
books on, 80-81
Medical services, 15, 37

N

National Association of State Directors of Special Education, Inc. (address), 17
National In-Service Network (address), 19
National School Volunteer Program, Inc. (address), 34
Native language 36
Needs assessment, 12, 19
information source, 19
Newsletter, 32
Nonacademic services, 51, 65
Noncompliance with P.L. 94-142, 9, 74
Nondiscrimination, 3, 5, 46, 49, 73
Nonhandicapped children, 11

O

Occupational therapy, 37

P

Parental consent, 39, 61
Parent(s) 36
activities for, 33-34
and administrator, 11
advocate, 12
counseling and training, 37
and due process, 6, 60-63
and Full Education Opportunity goal, 48
and IEP, 5-6, 10-11, 54
information sources for, 11, 33, 34
surrogate, 6, 12, 63
Parochial schools. *See* Private school(s)
Participating agency, 40
Personally identifiable information (PII), 40, 44, 47, 66-67
Personnel
in annual program plan, 43
development, 6, 48, 65
activities for, 19-25
regulations on, 56-58
See also In-service training
Physical education, 39, 51
Physical therapy, 37
Placement. *See* Evaluation/Placement procedures
Principal, 10, 15. *See also* Administrator
Private school(s), 55, 58-59
Procedural safeguards, 6, 16, 59-69. *See also* Due process
Program options, 51
Psychological services, 38
Public agency, 36
Public expense, 40
Public Law 93-112. *See* Vocational Rehabilitation Act
Public Law 94-142, 3-8
activities to implement, 19-34
books about, 75-77
community input and, 13
compliance-noncompliance with, 9, 74
effects on administrator of, 9-18
forms and activities required under, 16
funding under, 16
and gifted/talented students, 18
legislation prior to, 1-2
public awareness and, 32-33
regulations of, 35-74
sources for copies of, 8
teacher input and, 14
Public participation, 48-49

Q

Qualified person, 36

R

Recreation, 64
Reevaluation, 64
Referral process, 30
Related services, 4, 15, 36-37, 40, 58-59
Residential placement, 50
Role play, 31-32

S

Sanctions, 74
School administrator. *See* Administrator
School building, 9
School-community activities, 32-34
School district, 4, 6. *See also* Local educational agency
School health services, 38
SEA. *See* State educational agency
Segregation, 59
Services for handicapped children, 12, 17-18, 43
counseling, 37
direct, 40, 56
health, 38
medical, 15, 37
psychological, 38
related, 4, 15, 36-37, 40, 58-59
social work, 38
under P.L. 94-142, 50-58
Social worker, 15, 38
Social work services in schools, 38

Sources for materials on
conflict resolution, 29
IEP team, 26-27, 29
in-service training, 20,21
parent activities, 34
P.L. 94-142, 22-25
volunteer programs, 34
See also Books for reference
Special education, 7-8, 16-17, 33-34, 38-39, 40, 58. *See also* Free Appropriate Public Education
Special education teacher(s), 14, 18, 53-54
Speech pathology, 38
Staff reports, 30
State educational agency (SEA)
administration of, 69-71
annual program plan, 41-49, 67-69
annual report on children served, 72-73
and confidentiality of records, 65-67
and direct services, 56
and due process, 6
and evaluation procedures, 63-65
federal forms required from, 16
forms and activities required by, 16
and funding, 6
and LEA applications, 46-49
and personnel development, 6, 56-58
State(s), 39
allocation of funds to, 71-72
See also State educational agency
Students. *See* Handicapped child(ren); Nonhandicapped children
Support services, 40

T

Talented children, 18
Teacher(s)
attitudes of, 15
and Child Find program, 7
and IEP development, 53-54
and P.L. 94-142, 14
in-service training for, 14
See also Special education teacher(s)
Technical assistance, 65
Testing. *See* Evaluation/Placement procedures.
Transportation, 38

U

U.S. Education Department
forms and activities required by, 16
procedures on state's annual program plan, 67-69

V

Vocational education, 39
Vocational Rehabilitation Act, 3-4, 17, 73
books on, 77
Volunteer programs, 34